BEFORE THE METRO COUNCIL

AN ORDINANCE EXTENDING THE METRO CONSTRUCTION EXCISE TAX AND AMENDING METRO CODE CHAPTER 7.04	)))))))	ORDINANCE NO. 09-1220 Introduced by Chief Operating Officer Michael Jordan, with the concurrence of Council President David Bragdon

WHEREAS, implementation of the Regional Framework Plan by cities and counties through their comprehensive plans and land use regulations will help them come into compliance with the requirements of the Plan, including the Urban Growth Management Functional Plan, Chapter 3.07 of the Metro Code, and the requirements of state planning laws; and

WHEREAS, city and county planning efforts undertaken in accordance with the Regional Framework Plan will help them and the region achieve the Desired Outcomes established by the Metro Council on the recommendation of the Metropolitan Policy Advisory Committee for regional planning; and

WHEREAS, in March of 2006, after engaging in months of investigation and consultation with a broad-based stakeholder group regarding the regional needs for funding concept and comprehensive planning, including the October 2005 establishment of a tax study committee, the Metro Council adopted Ordinance No. 06-1115, "AN ORDINANCE CREATING A NEW METRO CODE CHAPTER 7.04 ESTABLISHING A CONSTRUCTION EXCISE TAX," ("2006 CET Ordinance"); and

WHEREAS, the construction excise tax rate established in the 2006 CET Ordinance was 0.12% of the value of new construction as defined in the CET Ordinance; and

WHEREAS, the 2006 CET Ordinance and Code chapter contain a sunset provision which states that the CET "shall not be imposed on and no person shall be liable to pay any tax for any construction activity that is commenced pursuant to a building permit issued on or after the last day of the month in which a total of $6.3 million has been collected under this Chapter, received by Metro, and certified as received by Metro to the local jurisdictions;" and

WHEREAS, the CET program has succeeded in raising revenues in accordance with the expected timeframe to pay for planning work that could not have been funded otherwise, and Metro has obligated the entire $6.3 million to local jurisdictions who have applied for CET grants; and

WHEREAS, Metro estimates that the $6.3 million amount will be reached in the fall of 2009 and that the CET will sunset at that time if further action is not taken; and

WHEREAS, in 2007 the Oregon state legislature adopted Senate Bill 1036, which authorizes school districts to levy construction excises taxes to pay for school facility construction, and prohibits the establishment of new construction excises taxes by other local governments, but the law states that the prohibition does not apply to "a tax that is in effect as of May 1, 2007, or to the extension or continuation of such a tax, provided that the rate of tax does not increase from the rate in effect as of May 1, 2007;" and

WHEREAS, during 2008 and 2009 Metro engaged in months of analysis and investigation regarding the CET including a CET Performance Review dated April 3, 2009; and

WHEREAS, in Spring of 2009 the Metro Chief Operating Officer convened an Advisory Group consisting of a broad-based stakeholder group, including the local jurisdictions affected by the CET, to advise the Metro COO regarding the continued regional needs for funding regional and local planning, and regarding the extension of Metro's CET in light of the recent passage of Senate Bill 1036; and

WHEREAS, after a series of meetings the Advisory Group recommended to the Metro COO that the Metro CET be extended for an additional five-year period; that the funds continue to be collected by local jurisdictions and remitted to Metro pursuant to Intergovernmental Agreements; that Metro distribute the funds in two cycles, first a two-year cycle and then a three-year cycle, in the form of grants to the local jurisdictions; that a grant screening committee be established, which committee will review proposed grants submitted by local jurisdictions and make grant recommendations to the Metro COO, who will then make grant recommendations to the Metro Council, which shall ultimately determine the grants and amounts that will be awarded; and

WHEREAS, the Advisory Group's studies and recommendations were presented to the Metroplitan Policy Advisory Group ("MPAC") on May 27, 2009, and MPAC voted to endorse the recommendations of the 2009 CET Advisory Group to extend the Metro construction excise tax (CET) for the purpose of funding grants for planning areas inside the urban growth boundary ("UGB"), future expansion areas, and urban reserves, with an emphasis on planning projects that advance the 2040 Regional Framework Plan and result in on-the-ground development; and also that the Metro Council direct the Metro COO to submit draft Administrative Rules for MPAC's review and comment; and

WHEREAS, Metro finds that it is in the best interests of the region to continue the funding source provided by the CET, and Metro is willing to assist local governments to fund their planning that is required to make land ready for development after its inclusion in the Urban Growth Boundary, by continuing to implement a region-wide Construction Excise Tax; and

WHEREAS, as required by Senate Bill 1036, the rate of Metro's Construction Excise Tax will not increase from the rate in effect as of May 1, 2007, which is 0.12%; and

WHEREAS, Metro will continue to exempt from the Construction Excise Tax all new construction valued at less than $100,000 and also the construction of low-income housing; and

WHEREAS, the Metro Construction Excise Tax will maintain the same stated "policy and purpose," which is "to provide funding for regional and local planning that is required to make land ready for development after its inclusion in the Urban Growth Boundary;" and

WHEREAS, the Metro Construction Excise Tax will maintain the same stated dedication of revenue, such that "funds derived from the imposition of this tax after deduction of necessary costs of collection shall be dedicated to fund for regional and local planning that is required to make land ready for development after its inclusion in the Urban Growth Boundary;" and

WHEREAS, the allocation of CET funds shall be determined by the Metro Council after receiving recommendations from the Metro Chief Operating Officer, who shall have convened and received recommendations from a grant screening committee that shall review requested grants submitted by local jurisdictions setting forth the expected completion of certain milestones associated with Metro Code Chapter 3.07, the Urban Growth Management Functional Plan; and

WHEREAS, the Construction Excise Tax shall sunset on a date five (5) years after the effective date of this Ordinance; and

WHEREAS, Metro has incurred not insignificant costs in implementing the CET program and is willing to continue to incur implementation costs but finds that retaining 2.5% of the taxes remitted to Metro is appropriate to partially reimburse Metro for its administrative costs; and

WHEREAS, the Metro Council hereby directs the Metro Chief Operating Officer to extend the Intergovernmental Agreements with local jurisdictions for collection of the Construction Excise Tax and remittance of such funds to Metro consistent with this Ordinance, and also hereby directs the Metro Chief Operating Officer to prepare yearly reports to the Metro Council, advising the Metro Council of the amounts collected from the Construction Excise Tax and the status of the grant requests by the local jurisdictions.

NOW, THEREFORE, THE METRO COUNCIL ORDAINS AS FOLLOWS:

Section 1. Extension of Metro Construction Excise Tax. Effective ninety (90) days after the passage of this Ordinance, the Metro Construction Excise Tax established pursuant to Metro Code Chapter 7.04 shall be extended to provide that the Construction Excise Tax shall not be imposed on and no person shall be liable to pay any tax for any construction activity that is commenced pursuant to a building permit issued on or after the last day of the month five years after the Effective Date of this Ordinance, i.e., September 30, 2014.

Section 2. Metro Code Amendment. Metro Code Chapter 7.04 shall be amended consistent with this Ordinance, in the form attached hereto as Exhibit A.

Section 3. Administrative Rules. The Metro Council hereby directs the Metro Chief Operating Officer to promulgate additional rules and regulations necessary for the administration and enforcement of the CET Code Chapter consistent with this Ordinance, and to return to the Metropolitan Policy Advisory Committee and to the Metro Council for consultation prior to adopting the Administrative Rules.

ADOPTED by the Metro Council this 11TH day of June, 2009.

David Bragdon, Council President

Attest:

Recording Secretary

Approved as to Form:

Daniel B. Cooper, Metro Attorney
Alison Kean Campbell, Deputy Metro Attorney

Effective Date: September 1, 2009.

Officially Approved
Approvato Ufficialmente
Consiglio Metropolitano
METRO COUNCIL
Metro Council

Exhibit A

METRO CODE – TITLE VII FINANCE
Chapter 7.04 CONSTRUCTION EXCISE TAX

7.04.220 Procedures for Distribution

The Chief Operating Officer shall distribute the revenues from the Construction Excise Tax as grants to local governments based on an analysis of grant requests submitted by the local jurisdiction which set forth the expected completion of certain milestones associated with ~~Title 11 of~~ Metro Code Chapter 3.07, the Urban Growth Management Functional Plan.

7.04.225 Metro Administrative Fee

Metro shall retain 2.5 percent (2.5%) of the taxes remitted to Metro for payment towards Metro's administrative expenses.

7.04.230 Sunset Provision

The Construction Excise Tax shall not be imposed on and no person shall be liable to pay any tax for any construction activity that is commenced pursuant to a building permit issued on or after the last day of the month five years after the effective date of this amendment to Chapter 7.04; i.e., September 30, 2014. ~~in which a total of $6.3 million has been collected under this Chapter, received by Metro, and certified as received by Metro to the local collecting jurisdictions.~~

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 09-1220, FOR THE PURPOSE OF EXTENDING THE METRO CONSTRUCTION EXCISE TAX AND AMENDING METRO CODE CHAPTER 7.04

Date: June 4, 2009 Prepared by: Andy Shaw

CET ESTABLISHMENT

In 2005, Metro convened an informal stakeholder group to discuss the challenge of completing planning mandated by the Urban Growth Management Functional Plan (UGMFP) for 2002-2005 Urban Growth Boundary (UGB) expansion areas. Many of the jurisdictions responsible for planning these areas lacked resources to conduct the required concept and comprehensive planning. The group was tasked with developing a funding mechanism to aid jurisdictions comply with the UGMFP in UGB expansion areas. Stakeholders discussed and examined various funding options, and the excise tax emerged as a preferred finance tool. Metro established an 11-member Tax Study Committee to explore and define the parameters of the tax including the rate, structure, exceptions, exemptions, duration, and oversight. After three months of study, discussions, and collaboration, the Tax Study Committee presented their finding and recommendations on the establishment of a construction excise tax (CET) to the Metro Policy Advisory Committee (MPAC) and the Metro Council. MPAC approved the Committee's recommendation, and on March 23, 2006, the Metro Council enacted OR 06-1115 establishing the CET, effective July 1, 2006.

The CET applies to building permits issued within the Metro service district boundary. The tax is assessed at 0.12 percent of the total value of the improvements for which a permit is sought. Permits valued below $100,000 and those issued to 501(c)(3) nonprofits for affordable housing are exempt from the tax. Permits for construction valued at more than $10 million are assessed a flat fee of $12,000. The CET ordinance included a sunset provision that limits collection of the tax to the last day of the month in which Metro certifies receipts for a total of $6.3 million. The sunset is likely to occur early in the fall if this year. Attached as Attachment I to this report is a Performance Review of the current CET program.

2009 CET ADVISORY GROUP

Starting in April 2009, Metro convened an informal CET advisory group to make recommendations to Metro's Chief Operating Officer (COO) on the future of the CET program as it approaches its sunset. New state legislation preempts Metro from levying another excise tax until 2018 if the current tax is allowed to lapse (discussed further below). The Advisory Group met three times, with the final meeting and recommendation to the COO taking place on May 19, 2009.

The advisory group recommended continuing the CET and maintaining its existing tax structure relatively unchanged from its original form. The same rate, exceptions and exemptions would apply if the program is extended. Expanding the sunset clause and the allocation of funds were recommended. Unlike the original round of the CET program in which the sunset was connected to total target revenue of $6.3 million for planning of UGB expansion areas, the group recommended that CET be extended for a five year period, and that the scope of eligible projects include existing urban area planning, new area planning, and urban reserves area planning. Attachments A-G to this staff report provide summary information from the informal advisory group process.

MPAC RECOMMENDATION
The Metro Policy Advisory Committee (MPAC) considered the recommendations of the 2009 CET advisory group on May 13 and May 27, 2009. On May 27, MPAC unanimously passed a motion recommending that the Metro Council extend the CET for the purposes identified by the 2009 informal CET advisory group.

ORDINANCE 09-1220
Ordinance 09-1220, for consideration before the Metro Council, reflects the recommendation of the advisory group on the extension of the program. Specifically, the ordinance calls for:

- Extending the sunset of the tax for 5 years to September 2014
- Maintaining the original tax structure
- Maintaining the original dedication of revenues
- Maintaining the original policy and purpose
- The retention of a 2.5% administrative fee by Metro

ANALYSIS/INFORMATION

1. **Known Opposition**
The Home Builders Association (HBA) sent a letter to the Metro Council on May 18, 2009 expressing strong interest in continuing to use CET funds exclusively for new expansion area planning. On May 27, 2009 Metro Councilors also received a letter from an independent home builder expressing similar concerns.

2. **Legal Antecedents**
Since the Metro CET was established in 2006, state law regarding local taxing authority has changed, limiting local government's authority to levy excise taxes on construction. In 2007, the Oregon Legislature enacted Senate Bill 1036, which authorized school districts to levy a construction excise tax on new residential, commercial, and industrial construction to pay for school facility construction. However, the bill also prohibited the establishment of new construction excise taxes by other local governments. The state preemption expires in 2018. Existing CETs are "grandfathered" in such that the local preemption does not apply to any tax "that is in effect as of May 1, 2007, or to the extension or continuation of such a tax, provided that the rate of tax does not increase from the rate in effect as of May 1, 2007". Thus, state law allows Metro to continue levying a CET so long as the rate does not increase. However, if the tax is allowed to sunset, SB 1036 would prohibit the enactment of an excise tax until 2018.

In evaluating the legal and political implications of the state legislation for the Metro CET, several issues were considered by the CET advisory group. First, when CET was instituted in 2006, there were no limitations on Metro's authority to levy such a tax. Senate Bill 1036, supported by the Oregon Home Builders Association (OHBA), included an exemption created at Metro's request, allowing Metro to extend its CET beyond the sunset date so long as the tax rate was not increased. Under the recommendation from the CET advisory group, the tax rate, exceptions, and exemptions would remain the same.

While changing the purpose of the tax is not prohibited by the SB 1036 exemption, the CET advisory group recommended maintaining the same purpose set forth in the 2006 Metro CET, which is "to provide funding for regional and local planning that is required to make land ready for development after its inclusion in the Urban Growth Boundary."

Extending the tax requires an amendment to the current Metro ordinance (06-1115), which would take 90 days to become effective after approval by the Metro Council. If the Council chooses to continue the CET, a vote should take place no later than June 2009 to prevent the tax from lapsing.

Because this ordinance extends an existing tax, and does not establish new tax, Metro is not required to establish a Tax Study Committee as outlined in Metro Code Section 2.19.200

3. Anticipated Effects

Should this legislation be adopted, CET funds will continue to be available for planning projects that make land ready for development after inclusion into the UGB. Areas that would be eligible for funding include existing urban areas, UGB expansion areas, and urban reserve areas. Funding for planning projects in these areas would be guided by key principles proposed by the advisory group and subject to the adoption of administrative rules by Metro's COO:

- *Expected Development Outcomes:* Applications weighed on ability to achieve on-the-ground development/redevelopment outcomes.

- *Regionally Significant:* Priority given to projects that clearly identify benefit to the region in achieving established regional development goals and outcomes. The region's development goals, expressed in the 2040 Growth Concept and the six Desired Outcomes adopted by the region to guide future planning, include:
    - People live and work in vibrant communities where they can choose to walk for pleasure and to meet their everyday needs.
    - Current and future residents benefit from the region's sustained economic competitiveness and prosperity.
    - People have safe and reliable transportation choices that enhance their quality of life.
    - The region is a leader in minimizing contributions to global warming.
    - Current and future generations enjoy clean air, clean water and healthy ecosystems.
    - The benefits and burdens of growth and change are distributed equitably.

- *Target funding towards planning that facilitates development in:*
    - Centers
    - Corridors/Main Streets
    - Station Centers
    - Employment & Industrial Areas

- *Equity:* Equitable distribution of funds based on collections of revenues and past funding. Equitable distribution of funds based on planning resource needs.

- *Leverage/Matching Potential:* Applications which leverage outcomes across jurisdictions and service providers, and that have opportunities for additional private/public investment will be given priority.

Should the CET be continued, the Metro COO will adopt the associated administrative rules governing this program and will present a draft to the Metro Council and MPAC for comments prior to adoption. In addition, staff time will be devoted to the development of a CET Grant Application Handbook, drafting collection and award IGAs, and monitoring funded projects. A CET grant Screening Committee will be established to screen and assess applications. This committee will represent a variety of regional interests and will report their recommendations to the Metro COO.

4. **Budget Impacts**
In the first round of CET, Metro staff dedicated over 2,150 hours to the administration of this program, for a cost of over $105,000 to the agency. These estimates are conservative and likely do not reflect the true cost of administering the program. Metro does not currently collect an administrative reimbursement for administering the CET program.

If the program is extended, the establishment of a competitive application process, the redrafting of all collection and award IGAs, and monitoring the planning progress of grantees will require considerably more staff time and resources than the current program. An administrative reimbursement of 2.5% is proposed to cover the costs of administering the program. Currently, collecting jurisdictions receive a 5% administrative reimbursement, collected prior to the submission of receipts to Metro.

5. **Attachments**
Attached are the following attachments:
- Attachment A – CET Advisory Group Meeting Recommendation
- Attachment B – 2009 Informal CET Advisory Group Meeting Attendance
- Attachment C – Potential CET Grant Evaluation Criteria
- Attachment D – Potential CET Grant Screening Committee
- Attachment E – G – Meeting Summaries for 2009 Informal CET Advisory Group
- Attachment H – CET Revenue Collections and Grants to Date by Jurisdiction
- Attachment I – Construction Excise Tax (CET) Performance Review Report

RECOMMENDED ACTION

The Chief Operating Officer recommends adoption of this ordinance

ATTACHMENT A
CET Advisory Group Recommendations
Revised – May 26, 2009

Tax Structure
Maintain the same tax rate, remove or revise the sunset.
Rate: 0.12% (unchanged)
Floor: $100,000 (unchanged)
Ceiling: $10,000,000 (unchanged)
Sunset: Extend the sunset for a 5-year cycle to raise $7-$10 million. Create a sunset or mandatory re-assessment after this second cycle.
Exemptions: 501(c)(3) affordable housing projects are exempt (unchanged).
Administrative Fee: 5% for collecting jurisdictions (unchanged), 2.5% for Metro

Process
Screening Committee
Create a new screening committee to assess applications for funding and bring recommendations to the Metro Council.

Funding process & amounts
Funding to be provided as grants for prospective projects, not reimbursements of expenses already incurred. The screening committee will evaluate planning applications and assess funding levels for the applications.

Two Grant Cycles
Grants would be allocated in two application cycles, one at the beginning of the five-year period, and another two years into the five-year period.

Purpose
Maintain the existing purpose of providing "funding for regional and local planning that is required to make land ready for development after its inclusion in the Urban Growth Boundary" to help implement the requirements of the Urban Growth Management Functional Plan (unchanged). Allocate funding for the planning activities described below, using the principles articulated under "guiding principles":

- *Existing Area Planning*: Place an emphasis on planning activities in existing areas inside the UGB
- *Urban Reserve Planning*: Future urban reserve areas would be eligible for grant funding to conduct concept planning.
- *Expansion Area Planning*: Future UGB expansion areas would be eligible for grant funding to conduct concept and/or comprehensive planning.
- *New Area Set Aside*: Create a set-aside of collected revenues to fund planning in urban reserve and expansion areas.

Guiding Principles
Expected Development Outcomes
Applications weighed on ability to achieve on-the-ground development/redevelopment outcomes.

Regionally Significant
Priority give to projects that clearly identify benefit to the region in achieving established regional development goals and outcomes. The region's development goals, expressed in the 2040 Growth Concept and the six Desired Outcomes adopted by the region to guide future planning, include:

- People live and work in vibrant communities where they can choose to walk for pleasure and to meet their everyday needs.
- Current and future residents benefit from the region's sustained economic competitiveness and prosperity.
- People have safe and reliable transportation choices that enhance their quality of life.
- The region is a leader in minimizing contributions to global warming.
- Current and future generations enjoy clean air, clean water and healthy ecosystems.
- The benefits and burdens of growth and change are distributed equitably.

Target funding towards planning that facilitates development in:

- Centers
- Corridors/Main Streets
- Station Centers
- Employment & Industrial Areas

Equity
Equitable distribution of funds based on collections of revenues and past funding.
Equitable distribution of funds based on planning resource needs.

Leverage/Matching Potential
Applications which leverage outcomes across jurisdictions and service providers, and that have opportunities for additional private/public investment will be given priority.

Focus
Avoid spreading funding broadly and thinly. Instead, fund a set of larger projects to leverage more substantial outcomes for the region.

ATTACHMENT B
2009 Informal CET Advisory Group
Meeting Attendance

Name	Organization	4/7/09	4/28/09	5/19/09
Alice Norris	Mayor, Oregon City	X	X	X
Andrew Beyer	Associated General Contractors	X		
Andy Shaw	Metro	X	X	X
Bernie Bottomly	Portland Business Alliance	X	X	X
Beverly Bookin	Commercial Real Estate Economic Coalition (CREEC)	X	X	X
Bob Clay	Portland Bureau of Planning and Sustainability	X	X	X
Bob Stacey	1000 friends of Oregon	X		
Brian Blalock	City of Tigard	X		
Craig Dirksen	Mayor, Tigard		X	X
Dave Nielson	Homebuilders Association of Metro Portland	X	X	X
David Bragdon	Metro	X	X	X
Dennis Mulvihill	Washington County Planning	X		X
Dic Steinbrugge	Beaverton School District	X	X	X
Dom Colleta	ULI Oregon/SW Washington	X	X	X
Doug McClain	Clackamas County	X	X	X
Elissa Gertler	Clackamas County	X		
Fred Wearn	PDC	X		X
Gil Kelley		X		X
Ina Zucker	Metro	X	X	X
Jack Hoffman	Mayor, Lake Oswego	X		X
Jane Leo	PMAR		X	X
Jim Pauley	Columbia Pacific Building Trades	X		
John Mohlis	Columbia Pacific Building Trades	X	X	
Kelly Ross	Western Advocates	X		X
Lisa Libby	Office of Mayor Sam Adams		X	
Mark Murray	Portland Public Schools	X		X
Mary Kyle McCurdy	1000 friends of Oregon		X	X
Michael Jordan	Metro	X	X	X
Mike Salsgiver	Associated General Contractors (AGC)	X		X
Paul Smith	PDOT	X	X	
Ray Valone	Metro Planning	X	X	X
Robert Liberty	Metro	X	X	X
Ron Papsdorf	City of Gresham	X	X	
Sarah Jo Chaplan	City Manager, Hillsboro	X	X	X
Susan Andersen	Portland Bureau of Planning and Sustainability	X		
Tom Brian	Chair, Washington County Board of Commissioners	X		
Tom Skaar	Home Builders Association	X		X

ATTACHMENT C
Potential CET Grant Evaluation Criteria
May 28, 2009

<u>Existing Urban Areas</u>

Weighing Criteria

1. The proposed project will be weighed on ability to achieve on-the-ground development/ redevelopment outcomes.

2. The proposed project would facilitate the implementation of the Regional 2040 Concept Plan
   A. The proposed planning project will produce significant new capacity for housing or employment in a Center, Corridor, Main Street, Station Community, or Employment/ Industrial areas.
   B. The proposed planning project will remove infrastructure and other regulatory barriers to zoned capacity.
   C. The proposed planning project will facilitate the development of a Neighborhood Center, as described in Title 12 of the Urban Growth Management Functional Plan (UGMFP), to bring commercial services within walking distance of residents of underserved neighborhoods.
   D. The proposed planning project will increase housing affordability and housing choice.
   E. If the proposed planning project involves planning for a designated Center or Station Community, the area will be zoned to meet or exceed the thresholds in the UGMFP.
   F. If the proposed planning project is a corridor study, the project will include an examination of zoning in and near the corridor to determine whether an increase in housing or employment capacity would improve the performance of existing or planned transportation facilities in the corridor.
3. The proposed planning project will leverage better outcomes, as measure against 2040 goals, from governments and service providers
4. The proposed project clearly identifies benefit to the region in achieving established regional development goals and outcomes.
   A. People live and work in vibrant communities where they can choose to walk for pleasure and to meet their everyday needs.
   B. Residents benefit from the region's sustained economic competitiveness and prosperity.
   C. People have safe and reliable transportation choices that enhance their quality of life.
   D. The region is a leader in minimizing contributions to global warming.
   E. Current and future generations enjoy clean air, clean water and healthy ecosystems.
   F. The benefits and burdens of growth and change are distributed equitably.

Funding Level Criteria

1. Commitment of project funding or in-kind contribution by project sponsor.

2. Opportunities for additional private/public investment and matching funds.

Urban Reserves/Post 2005 UGB Expansion Areas*

Weighing Criteria

1. The proposed project will be weighed on the ability to move area closer to on-the-ground development outcomes.
2. The proposed planning project will facilitate the implementation of the 2040 growth concept and the Urban Growth Management Functional Plan (UGMFP).
3. The proposed planning project will help meet objectives for housing affordability and housing choice within reserve areas.
4. The proposed project will leverage outcomes across jurisdictions and service providers.
5. The proposed project will leverage and create opportunities for additional private/public investment and matching funds.

Funding Level Criteria

1. Commitment of project funding or in-kind contribution by project sponsor.

2. Commitment of funding or in-kind contribution by private development interests.

**Grants in this category will be considered during the second round of CET funding in 2012.*

ATTACHMENT D
Potential CET Grant Screening Committee

Background:

If the Metro construction excise tax (CET) is extended to fund a broader spectrum of planning projects, a Screening Committee is needed to review and assess applications according to program criteria.

Purpose:

To screen and assess CET grant applications and make recommendations to Metro Chief Operating Officer (COO) of candidates for funding.

Duration/Time Commitment:

The Screening Committee would assess two rounds of applications:

First tentative application assessment cycle: Dec 2009 – Jan 2010
Second tentative application assessment cycle: Dec 2011 – Jan 2012

Scope/Deliverables:

- Review applications for completion
- Assess applications according to program criteria
- Make recommendation to Metro COO on applications for funding and amounts. This recommendation is to be presented in written form
- All recommended applications must be supported by at least five members of the committee

Who:

The Committee will be comprised of nine individuals representing a variety of expertise from public and private interests and one non-voting Metro Councilor to serve as a liaison. Chair of the Committee to be appointed by the Metro Council. The committee should include at least:

- One member with expertise in economic development
- One member with expertise in urban planning
- At least one member with expertise in real estate development and finance
- One member representing local government
- One member with expertise in urban renewal and redevelopment
- One member representing business interests
- One member from a Neighborhood Association or Community Planning Commission with an understanding of community livability issues
- One member with expertise in environmental sustainability

Metro COO:

The CET Screening Committee will make recommendations to the Metro COO on applications. The COO will forward this recommendation to the Metro Council and may submit supplemental recommendations. The Metro Council approves funding of applications.

ATTACHMENT E
CET Advisory Group
Meeting Summary, April 7, 2009

On the outcomes of the CET program:

There was general consensus that the CET program has been successful in meeting the (narrow) purpose of funding comprehensive planning in UGB expansion areas.

Some members raised questions about the value of the planning in terms of its delivery of on-the-ground development. One participant asked: What is the tangible, measureable benefit to the region of completing concept and comprehensive plans? Answer: Comprehensive planning is a pre-requisite for development; planning facilitates development, even if it is not immediate. An example of "on the ground" results from the CET program is the Shutte/Evergreen employment area in Hillsboro where companies such as Genentech and Solar World have now located.

Representatives of local jurisdictions receiving CET funds commented that the funds had allowed them to create great development plans for expansion areas. This planning work would not have been possible otherwise.

However, three key challenges emerged to developing the planned areas:

- The lack of financing for infrastructure to implement plans
- Voter approved annexations have stalled implementation of some CET funded plans
- The need to invest time and energy into public participation and education to show the benefits of development (both in expansion areas and redeveloping areas)

Local government officials on the committee noted that the CET money ended up being only a part of the total cost of planning work, and they needed to pay for the remainder with general funds.

The Home Builders' representative raised questions about Metro's authority to ensure final adoption of comprehensive plans by jurisdictions. IGAs between Metro and local governments stipulate that final CET payments are contingent upon plan adoption. A suggestion was made to link final payment(s) of CET funds to approval of annexation by voters in places where such voter approval is required.

On the CET tax structure & Metro administration:

The Committee was briefed on the interaction between Metro's CET ordinance and state statute restricting local adoption of construction excise taxes limits Metro's ability to change the tax rate. Increases are disallowed, but decreases might permanently limit Metro's authority. The majority of the group supported the inclusion of a sunset or review after a second phase, either tied to a certain date or a collection target.

The group expressed initial support for extending the CET, but subject to an understanding of the purposes of a second round of CET funding.

Committee members seemed satisfied with Metro's administration of the Construction Excise Tax program.

On purposes for "round two" of CET:
The group discussed the potential uses of CET planning funds across the range of possible planning activities: from urban reserve planning, new area planning, urban redevelopment planning, and assisting small jurisdictions in complying with Functional Plan requirements.

Themes that emerged on the issue of planning purposes included:

- A desire to avoid the "peanut -butter" effect, i.e. spreading the money too thinly over a large number of projects or jurisdictions. There is a limited amount of funding available via the CET.
- The use of funds for urban reserve planning is a good opportunity to conduct planning and identify both capacity and costs before considering expansion of the UGB. Urban reserves, though, will not need to be addressed over the next few years, so planning money should be focused on areas inside the UGB.
- Portland, where development projects generated a large share of the CET funds did not receive any benefit from the fund. This generated a few comments about making regional geographic equity in the allocation of funds a principle in round two.
- Washington and Clackamas counties both would like to conduct planning updates in lower-density, unincorporated county areas, such as Aloha and regional Center at Clackamas Town Center and the McLoughlin 2040 corridor.
- Employment areas should also be considered as areas needing investments in planning.
- Some participants expressed a desire to balance the focus between new areas and urban areas, to create the intent to make both areas successful, and to have some certainty that the money will deliver on-the-ground results.
- Just as in the first round of funding, money should be used in a strategic way for the benefit of increasing the capacity of the region and not just redistributed back to local governments to backfill local government budgets.
- Existing regional priorities and thematic or geographic guidelines should be used to assess project proposals.

ATTACHMENT F
CET Advisory Group
Meeting Summary, April 28, 2009

Recap: Metro staff summarized the first meeting's discussions and sought comments/corrections on the written meeting summary.

On the draft CET proposal: Based on the conversation held at the first advisory group meeting, Metro staff prepared, and the group discussed a draft proposal for a CET tax structure, process, purpose, and guiding principles of the program if renewed.

Tax Structure

With exception of the sunset, the tax structure proposed remained unchanged from the original. The proposal included a five year CET sunset cycle to raise $7 - $10 million with one round of grant applications and funding.

There was general consensus on the tax structure. Suggestions that were volunteered included lowering the rate for a limited duration, maintaining a lower rate through 2018 (when the SB 1036 pre-emption is lifted) in order to raise the same target revenue, or offering a percentage rebate to permit payees. After deliberation the group decided against these options because of the legal and administrative challenges they would raise. The group consensus was to keep the tax rate and structure unchanged.

Process:

Rather than providing for a contingency fund, the group opted for two rounds of grants during a five year CET cycle to allow for opportunities to local governments. The group deliberated on the issue of using grant funds for reimbursements for planning work done by jurisdictions in the second round of the program. Participants concluded that because the planning work to be funded in the second round is not a regional mandate, there should be no provision reimbursements.

The group agreed that the screening committee should be a broad group of interests representing the public and private sector. Interest was expressed in using the screening committee and IGAs to monitor and track of funded applications to support the expected development outcomes.

Purpose:

A suggestion was made to include "redevelopment" in the general purpose statement as a clarification.

The group discussion on purpose focused on providing a specific set-aside for urban reserve and new area planning. The group expressed confusion over whether the set-aside would cover both new urban areas and reserve areas. While most agreed that planning for urban reserve areas before they are brought into the UGB is important, many felt that having a set aside at 15 % for reserve area is potentially too high and an arbitrary a number. The group was not able to come to a clear consensus on the specifics of how to fund and evaluate urban reserve planning, but agreed that:

- There should be emphasis on investing in existing urban areas, but we should leave the door open for new areas to be funded. These areas include possible new areas brought into the UGB in 2010 and urban reserve areas.

Guiding Principles:

One participant argued for specifically calling out "Main Streets" as one of the target areas for funding. There was general agreement that areas identified in the 2040 architecture are clear target areas for directing growth. However, other participants expressed concern that these target areas limit the places throughout the region that can be eligible for funding (i.e. areas that aren't centers or corridors). Another participant mentioned that the private sector has also created centers that aren't 2040 centers (i.e. Bridgeport Village). To address this, it was suggested that areas surrounding centers or corridors be included for eligibility by changing the language under "target areas" to read *'areas that help facilitate the development of centers, corridors, station areas, employment areas, and main streets'*.

The group discussed the importance of evaluating projects on the ability to create "on-the-ground" development results. Participants expressed that the applicants should carefully detail how and when development will occur as a result of the planning process. This need to demonstrate timely development outcomes should also be paired with a regional significance factor for projects.

Key themes that emerged

- The importance of plans to achieve timely development outcomes
- Concern about funding "studies" that lack implementation capacity
- Importance of funding projects that have regional significance.
- The screening committee should include a balance of interests, be driven by clear and technical criteria, and have some role in evaluating and monitoring of on-going work and milestones.
- Target areas should include adjacent neighborhoods and possibly undesignated target areas (i.e. Bridgeport).

Issues moving forward and next steps for the third meeting

- Illustrate how different plans can meet or not meet guiding principles and criteria.
- Illustrate what the steering committee could look like.
- Resolve how new/existing area allocation can be embedded in guiding principles
- Define how applications can clearly document that plans will lead to expected development outcomes

ATTACHMENT G
CET Advisory Group
Meeting Summary, May 19, 2009

Recap of Previous Meeting:
Metro staff reviewed the discussion and recommendations from the previous advisory group meeting, summarized changes to the proposal for extending the CET, and sought initial comments, corrections or responses.

Discussion on the HBA letter:
Representatives from the Homebuilders Association of Metropolitan Portland shared a letter expressing concerns about a CET extension, including whether extending the tax and changing the purpose would be legal under state law, and stating that a majority of the CET funds should still be used to fund planning in expansion areas. HBA asked that there be additional legal review of the proposal to extend the CET. The group discussed the policy issue of trying to balance funding for reserve and expansion area planning with planning for existing areas. Group members recognized that it is a regional responsibility to plan for expansion and reserve areas, but also expressed a desire for future CET grant cycles to focus on whether planning projects prepare land for development. Members expressed interest in funding plans competitively based on outcomes, rather than on location in the region. This conversation touched on the issue of setting-aside funds specifically for reserves and expansion area planning.

Selection Committee:
Staff presented a discussion proposal for a grant application screening committee. The group agreed that the screening committee should be a diverse, nine-person committee. There was discussion over whether the committee should deliver their recommendations directly to the Metro Council or if the COO should also provide recommendations to the Metro Council. The group recommended that Metro COO would receive the recommendations, forward them to the Council, and provide additional recommendations or comments to the Council. Also the group recommended that the Metro Council liaison on the committee would be a non-voting committee member.

Planning Project Examples:
Staff presented a Planning Project Examples Discussion Guide with sample planning proposals from a selection of local jurisdictions. Group members expressed appreciation for this information in conjunction with the list of criteria.

Grant Criteria:
The group discussed the proposed criteria for existing area plans and urban reserves/expansion area plans. The group discussed and suggested changes to the language of the criteria and definition of terms such as “affordable housing”, “service provider”, “corridor planning”, and ensuring that the term “development” includes redevelopment. The group emphasized the importance of having all applicants provide some matching funds or in-kind contribution to show commitment to the project.

Criteria for urban reserves and expansion area planning:
The group debated whether the criteria for expansion and reserve area planning should be limited to plans that help facilitate 2040 design types or should include all comprehensive planning projects. Some group members felt that it would be unrealistic to limit funding for center and corridor planning in expansion areas. Other group members expressed the concern that comprehensive plans might not result in ready to implement development outcomes. The group noted that most planning in these reserve or expansion areas might not result in development outcomes, so maybe the criteria for these areas should be changed to emphasize a priority for getting land closer to future development. Part of the complexity of pre-determining criteria to judge future expansion and reserve area planning projects is that this time around, areas will be planned before they are included in the UGB, which is different from past practice.

Another question that came up was whether applications for expansion and reserve area planning should be only compared to other similar applications or if they should be included in the same pool as applications for existing area planning. This discussion looped back to the question of whether there should be a percentage set-aside for urban reserve and expansion area planning. On this issue, the group was roughly split between yes, no, and mixed with a small majority in favor a set-aside. Staff noted that the original discussion proposal included an urban reserve planning set-aside, but the group had discussed and rejected that approach. The group did agree that involving and leveraging investment from the private sector should be an important consideration in the weighing criteria for reserve and expansion area planning.

Final Recommendations:
Councilor Liberty summarized the key elements of the proposal, as modified by the day's discussion, and asked participants to vote to recommend or not recommend the whole package. The majority of group members voted yes on recommending the CET extension proposal (15 support, 3 oppose, 2 mixed opinion, and 1 abstention). Councilor Liberty next asked for views on the issue of a set-aside for reserve and expansion area planning. A small majority favored the set-aside (11 support, 4 oppose, and 4 neutral). Members discussed what proportion of funds should be set aside, considered the original proposal of 15 percent, as well as 25 and 50 percent, but could not agree on a reasonable amount.

ATTACHMENT H

CET Revenue Collections and Grants to Date by Jurisdiction				
Jurisdiction	Collection to Date	% of Total Collection	Grant Awarded	% of Total Grant Funds
Beaverton	$239,327.00	4.0%	$3,750	0.1%
Clackamas County	$461,097.95	8.0%	$202,701	3.2%
Cornelius	$20,183.00	0.0%	$25,500	0.4%
Damascus	———	———	$524,724	8.3%
Durham	$1,177.00	0.0%	$0	0.0%
Fairview	$26,134.60	0.0%	$0	0.0%
Forest Grove	$95,734.00	2.0%	$8,422	0.1%
Gresham	$314,163.18	6.0%	$1,067,129	17.0%
Happy Valley	$175,480.00	3.0%	$168,631	2.7%
Hillsboro	$621,142.90	11.0%	$532,500	8.5%
King City	$29,296.67	1.0%	$0	0.0%
Lake Oswego	$131,789.87	2.0%	$0	0.0%
Milwaukie	$22,713.41	0.0%	$0	0.0%
Multnomah County	———	———	$202,500	3.2%
Oregon City	$180,970.75	3.0%	$702,000	11.2%
Portland	$2,026,781.00	36.0%	$0	0.0%
Sherwood	$96,557.02	2.0%	$376,964	6.0%
Tigard	$169,418.52	3.0%	$0	0.0%
Troutdale	$64,215.79	1.0%	$0	0.0%
Tualatin	$182,221.00	3.0%	$83,101	1.3%
Washington County	$489,892.79	9.0%	$2,397,478	38.1%
West Linn	$93,084.16	2.0%	$0	0.0%
Wilsonville	$150,740.58	3.0%	$0	0.0%
Wood Village	$11,648.63	0.0%	$0	0.0%
Total	**$5,603,769.82**	**100%**	**$6,295,400**	**100%**

Note: Multnomah County and Damascus did not enter into IGAs with Metro for the colletion of CET revenues because they do not operate their own building permit counters.

A grant of $365,278 was awarded for the planning of Coffee Creek 2 which will be a joint effort by Washington County, Clackamas County, Tualatin, or Willsonville. For the purposes of this table, the funds are shown as allocated to Washington County.

Metro funded the costs of grant awards up-front and is now in the process of collecting the revenues.

ATTACHMENT I

Metro | People places. Open spaces.

Construction Excise Tax (CET) Performance Review

April 3, 2009

Background

Overview

Metro is the directly elected regional government that serves 1.4 million residents in Clackamas, Multnomah and Washington counties, and the 25 cities in the Portland metropolitan area. Metro is responsible, among other things, for regional land use and transportation planning.

In 2006, after consultation with a broad-based stakeholder committee, the Metro Council established a construction excise tax (CET) to fund planning activities in areas recently added to the Portland metropolitan region's urban growth boundary (UGB). Cities and counties lacked the resources to conduct concept planning in these areas, which is a prerequisite to development. More importantly, this initial planning work is critical to creating vibrant communities, a key goal of Metro's *Making the Greatest Place* initiative.

Making the Greatest Place goals:

VIBRANT COMMUNITIES: People live and work in vibrant communities where they can choose to walk for pleasure and to meet their everyday needs.

ECONOMIC PROSPERITY: Our Children and their children benefit from the region's sustained economic competitiveness and prosperity.

SAFE AND RELIABLE TRANS-PORTATION: People have safe and reliable transportation choices that enhance their quality of life.

SUSTAINABILITY: The region is a leader in sustainability and minimizing contributions to climate change.

CLEAN AIR AND WATER: Current and future generations enjoy clean air, clean water, and healthy ecosystems.

FAIRNESS AND EQUITY: The benefits and burdens of growth and change are distributed fairly and equitably.

The CET program has succeeded in raising revenues in a timely fashion to pay for planning work that could not have been funded otherwise. Metro, cities, and counties promptly established intergovernmental agreements. The collection and transfer of excise tax revenues by local governments has been straightforward. Metro has worked closely with grantees to track the achievement of milestones and the payment of grants by Metro to local governments has been timely and simple. As a result the vast majority of the planning work that Metro's CET program was established to carry out is now complete.

The construction excise tax is due to sunset when the total amount of $6.3 million has been levied (the amount required to fund new area planning activity), which is currently estimated to occur in the fall of 2009. This report provides an overview of how the CET program has performed during the past three years.

Planning Mandates

Metro is responsible for managing the UGB and is required, by state law, to maintain a 20-year supply of land for future residential development inside the boundary. Every five years, the Metro Council is required to conduct a review of the land supply and, if necessary, change policy inside the existing UGB, expand the UGB, or both, to meet that requirement.

From 1998 to 2005, Metro added more than 23,000 acres to the UGB. Title 11 of Metro's Urban Growth Management Functional Plan requires the city(ies) or county that will provide services for the new urban area to adopt comprehensive plan provisions concerning the future urbanization of the area. This must be completed before the land can be converted from rural to urban use. These comprehensive plan provisions must address issues like minimum residential density levels, diversity of housing stock, an adequate transportation system, protection of natural resource areas and needed school facilities.

> *"The Metro CET grant is a valuable asset for communities in the region to conduct planning work that is necessary for compliance with regional and state requirements. Our city has limited funding, staffing and expertise to develop these studies. The CET grant allowed our community to complete these in a comprehensive manner."*
>
> -Anita Yap, Damascus

Obstacle to Compliance

After these new areas were added to the UGB, it became clear that many of the jurisdictions responsible for the new area planning could not comply with planning requirements due to limited staff and a lack of resources. By 2007, less than 15 percent of the land added to the UGB since 1998 was planned and developed, turning Title 11 into what some call an "unfunded mandate". Identifying money to support these planning needs became an issue of regional importance.

A Regional Planning Solution

In 2005, Metro convened key stakeholders to discuss the challenge of paying for planning in expansion areas. Stakeholders included business, labor, development and environmental interests, as well as the Home Builders Association, local elected officials, and city and county planners. Early scoping and discussion with jurisdictions on the needs gap revealed that roughly $6.3 million was needed to fund planning for the UGB expansions[1] from 2002-2005. There was strong agreement among stakeholders that paying for planning in these areas was a significant regional need. In examining various finance mechanisms, an excise tax on building permits emerged as a preferred tool.

Following the stakeholder meetings, Metro established a Tax Study Committee to further explore and define the parameters for such a tax including tax base, rate, target revenues, duration, dedications, allocation criteria and oversight. The Committee was composed of eleven members that represented various interests including development, schools, land-use advocates, building trades, county and city policy makers, municipal planners, community development groups, and non-voting members of Metro.

After three months of study, discussions, and collaboration, the Tax Study Committee presented their finding and recommendations on the establishment of a CET to the Metro Council and the Metro Policy Advisory Committee (MPAC). MPAC approved the Committee's recommendation, and on March 23rd, 2006, the Metro Council enacted OR 06-1115 establishing the CET, effective July 1, 2006.

[1] This number reflects total cost estimates reported to Metro by the jurisdictions for the completion of new area planning.

Tax Structure

The CET applies to building permits issued within the Metro service district boundary. The purpose of the tax is to support new area planning required to make land ready for development after it is included in the UGB. The tax is assessed at 0.12 percent of the total value of the improvements for which a permit is sought.

Exemptions and Exceptions

Permits valued below $100,000, permits for affordable housing, and permits issued to 501(c)(3) nonprofits are exempt from the tax. Permits for construction valued at more than $10 million are assessed a flat fee of $12,000. There have been relatively few exemptions, mostly for qualifying low income housing projects. Metro staff works with the jurisdictions, and sometimes directly with the applicants, to evaluate exemption requests.

Collection

Metro has established intergovernmental agreements (IGAs) with each city and county for the collection of the CET, including the provision of a five percent administrative fee to the jurisdictions responsible for collecting the tax. This administrative fee is collected on site by the jurisdictions and is not part of the funds submitted to Metro quarterly.

Apart from Metro, school districts are the only other entities currently collecting an excise tax in the Portland metro region (under SB 1036, enacted in 2007). The administrative fee provided to jurisdictions under the school excise tax is one percent of total revenues.

> *"We found the process to be streamlined and easy to work with, and appreciate Metro's flexibility in working through CET milestones, deadlines and the invoicing process. "*
>
> -Michael Walter
> Happy Valley

Sunset

The CET ordinance included a sunset provision that limits collection of the tax to the last day of the month in which a total of $6.3 million has been collected. Metro must provide prompt written notice to collecting jurisdictions when the last of the funds are received and certified.

Metro Administration of CET

Review and Funding of Grant Applications

> *"The process was easy to understand and reimbursements followed in a timely fashion. The City has one more concept plan to prepare, for South End, and we look forward to continuing a positive relationship in that endeavor."*
>
> -Dan Drentlaw
> Oregon City

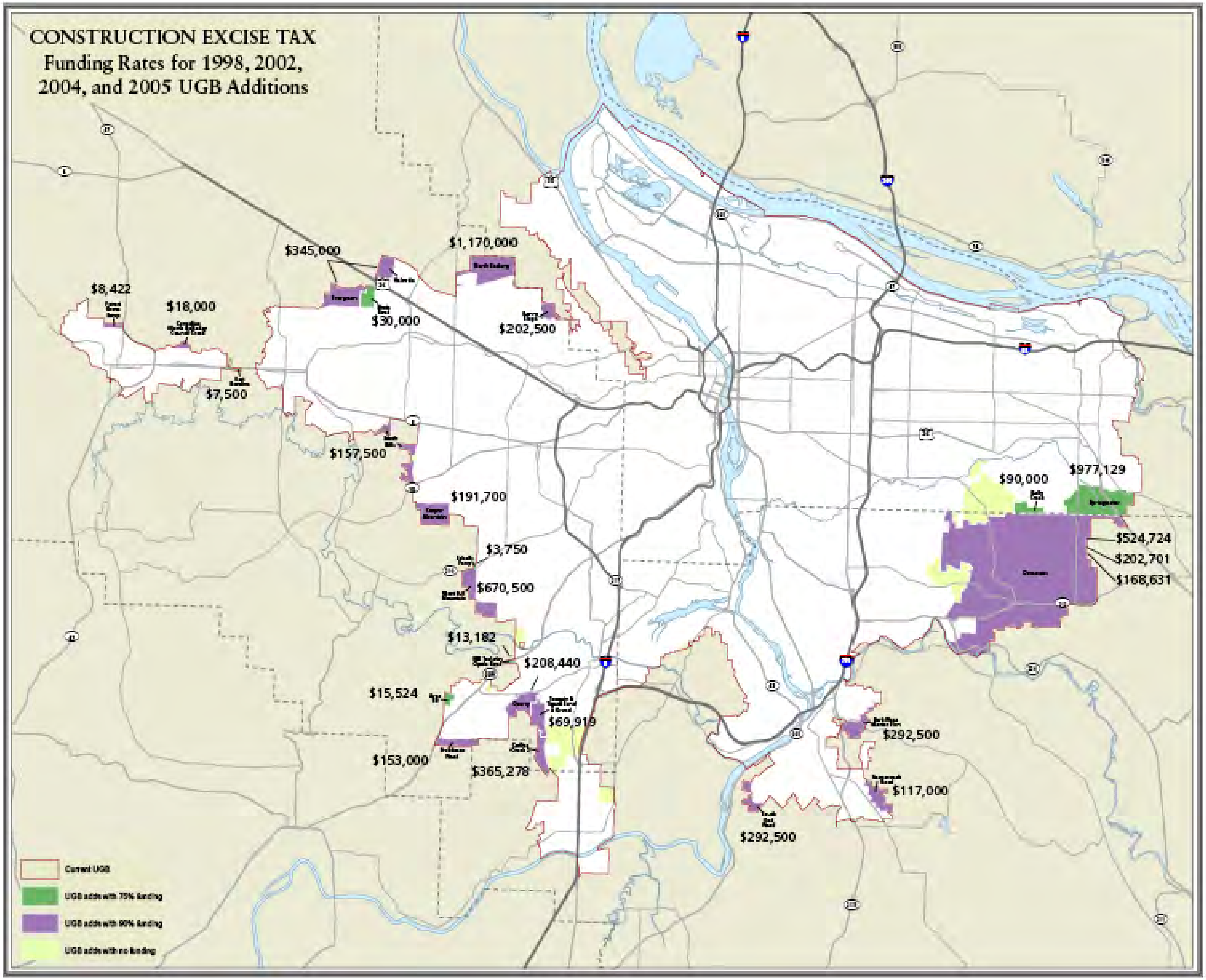
Metro worked with regional partners, the Tax Study Committee and MPAC to establish a process to distribute the $6.3 million that would be raised through the CET. Ultimately, Metro determined that a process of distribution through jurisdictional application was most equitable. Metro became responsible for reviewing applications based on their relevance to regional planning requirements.

Though many jurisdictions had not yet begun any planning in new areas, some had already completed or commenced the work. To recognize the effort made by the latter jurisdictions, it was decided to partially reimburse them. To account for total grant requests that exceeded the available funds, a formula for granting awards was developed that paid out grants at two different rates. Jurisdictions which had not completed or undertaken any planning received 90 percent funding of their grant requests. Jurisdictions that had already completed their new area planning were reimbursed at 75 percent of their total grant requests. Metro was responsible for providing the up-front financing of approved grant requests as CET was collecting revenue. Map 1, on the next page, displays the expansion areas that received CET grants along with the amount of each grant.

Payments of grants and reimbursements are not made in one lump sum. With each planning milestone met in the IGA timeline, such as substantial progress towards completion of a concept plan and eventually adoption of a comprehensive plan amendment, jurisdictions receive a partial payment or reimbursement. If a jurisdiction anticipates that a due date for a milestone will not be met, it must inform Metro in writing no later than ten days prior to the due date. Metro and a jurisdiction must mutually revise the milestones in the IGA's.

Metro collected no administrative fee or reimbursement for the development or administration of the CET program. Revenues collected were fully allocated to grant distribution and local administrative costs.

Map 1


CONSTRUCTION EXCISE TAX
Funding Rates for 1998, 2002, 2004, and 2005 UGB Additions
$8,422
$18,000
$345,000
$30,000
$1,170,000
$202,500
$7,500
$157,500
$191,700
$3,750
$670,500
$13,182
$208,440
$15,524
$69,919
$153,000
$365,278
$90,000
$977,129
$524,724
$202,701
$168,631
$292,500
$117,000
$292,500
Current UGB
UGB adds with 75% funding
UGB adds with 90% funding
UGB adds with no funding

Performance

Collections

Original Tax Study Committee estimates, based on historical construction activity in the region, concluded that the target collections of $6.3 million could be collected in approximately three years by imposing an excise tax of 0.12 percent on the value of construction permits (including specified exceptions and exemptions). According to this estimate, the target collections would be met by June/July 2009. Figure 1 shows cumulative yearly totals of revenues through the second quarter of FY 2009. After two-and-a-half years of collection, $5.2 million has been received. However, receipts have slowed during the first two quarters of FY 2009, compared to 2006/2007.

Figure 1

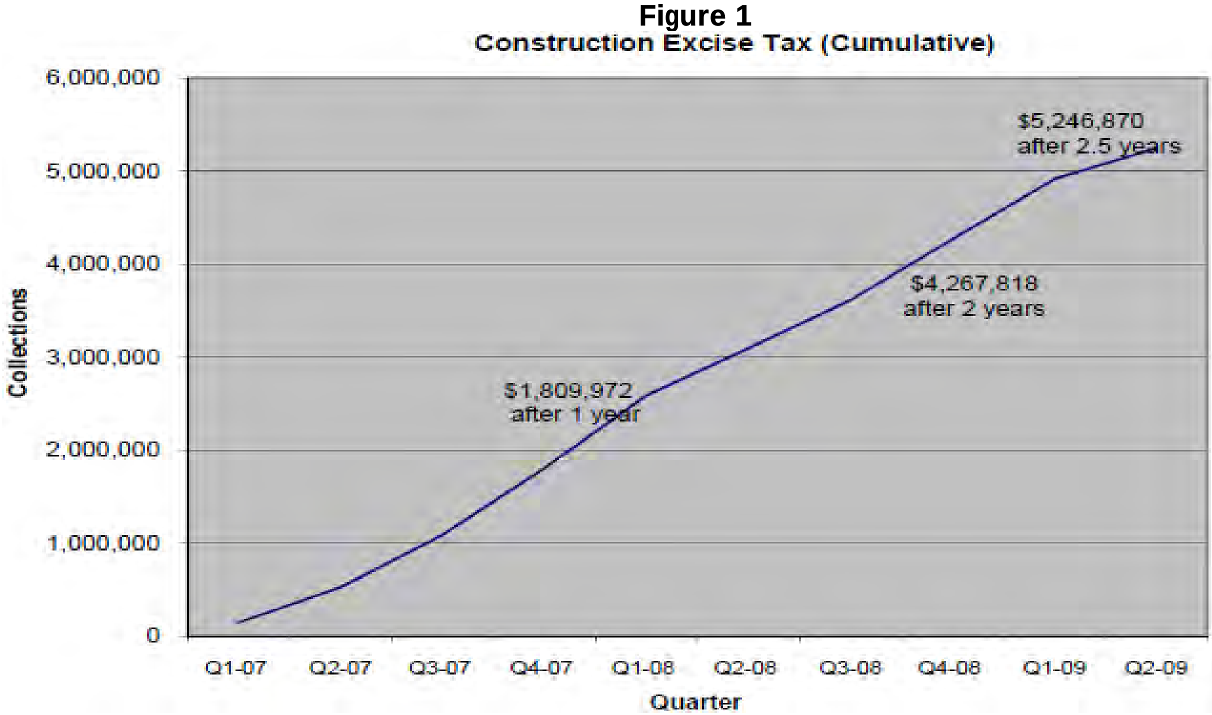
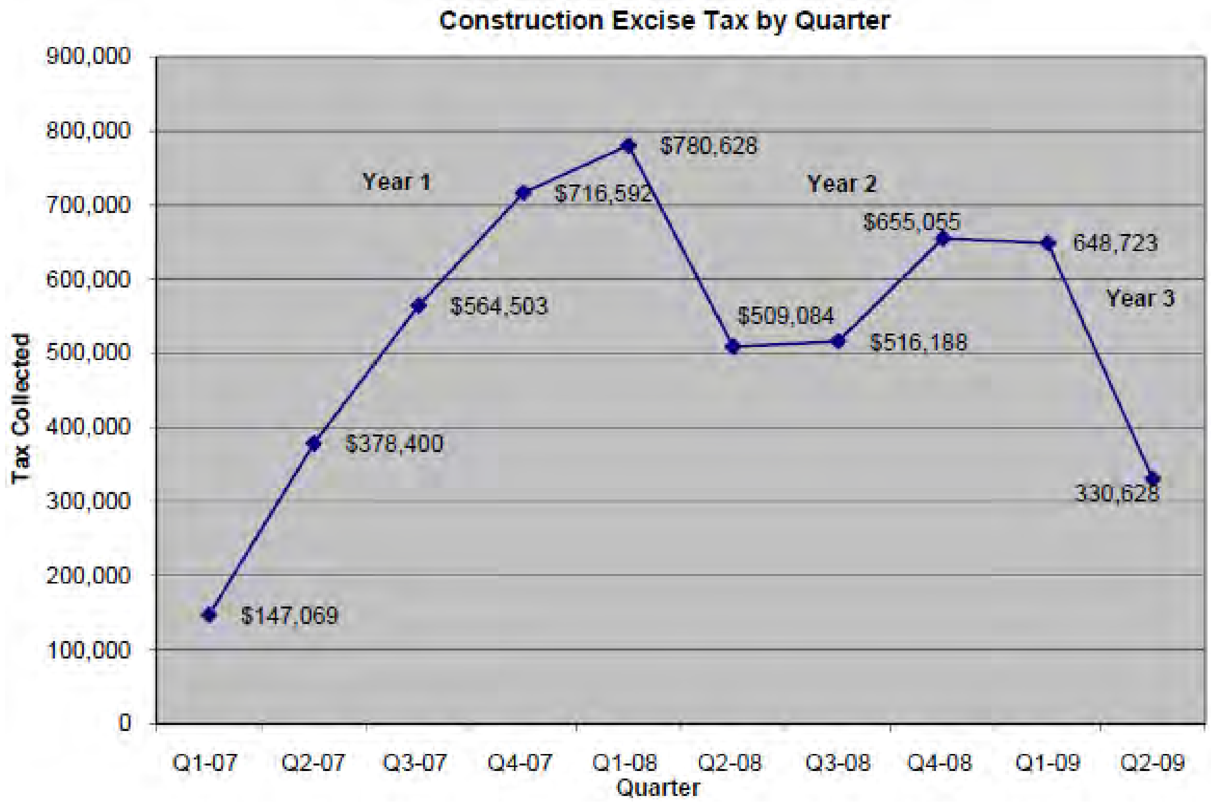


Figure 2 reflects total revenues collected by quarter. The first five quarters represent the highs of the real estate market. The dips in the second and third quarters of FY 2008 coincide with the cyclical dips of construction during cold wet months, while the fourth quarter of FY 2008 and the first quarter of FY 2009 reflect the surge of construction that occurs during the warmer months. Most notable however, is the steep decline in revenues in the second quarter of FY 2009. While this period does coincide with the beginning of the cold season, the decline also shows the impacts of the current recession on the construction and real estate markets. With the economy not predicted to begin stabilizing until mid-2010, it is likely that average CET revenues will be lower than average throughout the 2009 calendar year, affecting the timing of the CET sunset, which is connected to the collection of total target revenues ($6.3 million).

Figure 2



The figure in Appendix A displays the *total value* of CET permits by type, commercial or residential, from July 2006 through September 2008.[i] The commercial category includes everything except residential development (industrial, commercial, etc.). As shown, for jurisdictions other than Portland and Fairview, the total value of permits for residential development has been greater than for commercial. These numbers attest to not only the real estate market peak, but also the increase in population and demand for housing on the region. Though residential permits greatly outnumbered those for commercial use, a few particularly expensive commercial projects in the cities of Portland and Fairview brought the total value of commercial permits to exceed that of residential.

Appendix B displays all new residential units throughout the region subject to the Construction Excise Tax separated out by the number of units per permit from 2006 to 2008. The map illustrates that the majority of residential permits subject to the CET were for single-family residential developments. Permits for residential developments of 35 units or more were rare throughout the region. The majority of these multi-family developments are concentrated in Portland but a few are also found in the Beaverton, Hillsboro, and Wilsonville areas.

Appendix C displays all new commercial units throughout the region subject to the Construction Excise Tax separated by the value of the permit from 2006 to 2008. The map shows that the majority of the permits subject to CET were in the range of one to 30 million, with a few permits having a value of 30 million and greater. The spatial display of these permits reveals clusters of commercial permits in Portland's city center as well as smaller clusters in Hillsboro and the Clackamas County 2040 regional center.

Table 1 - New Area Planning Progress and Funding

Lead Jurisdiction	Subarea for Planning	CET Funding Rate	Total CET Grant Allocation	New Planning Completed	New Planning Underway	Reimbursement Issued	Planning & Reimbursements not Yet Started
Beaverton	Scholls Ferry (portions of Bull Mtn/Area 64)	75%	$3,750			x	
Clackamas Co.	Damascus/ Boring	75%	$202,701			x	
Cornelius	E. Baselin (Area 77)	75%	$7,500			x	
Cornelius	Cornelius/ N. Holladay/ Council Creek	90%	$18,000				x
Damascus	Damascus Concept	90%	$524,724		x		
Forest Grove	Forest Grove Swap	90%	$8,422				x
Gresham	Springwater (Areas 6 & 12)	75%	$977,129			x	
Gresham	Kelly Creek (Area 13)	75%	$90,000		x		
Happy Valley	Happy Valley Comp.	90%	$168,631	x			
Hillsboro	South Hills (Areas 69 & 71)	90%	$157,500		x		
Hillsboro	Shute Rd	75%	$30,000			x	
Hillsboro	Helvetia and Evergreen	90%	$345,000	x			
Multnomah Co.	Bonny Slope (Area 93)	90%	$202,500		x		
Oregon City	Park Place Master Plan	90%	$292,500	x			
Oregon City	Beavercreek Rd. & Area 26	90%	$117,000	x			
Oregon City	South End Rd (Area 32)	90%	$292,500				x
Sherwood	Brookman Rd	90%	$153,000		x		
Sherwood	Area 59	75%	$15,524			x	
Sherwood	Quarry (portions of Areas 48 & 49)	90%	$208,440		x		
Tualatin	SW Implementation Plan	90%	$30,907				x
Tualatin	NW ans SW Tualatin Plans	75%	$52,194			x	
Washington & Clackamas Counties or Tualatin or Wilsonville	Coffee Creek 2/ portions of Areas 47 & 49	90%	$365,278				x
Washinton Co.	Bull Mountain (Areas 63 & 64)	90%	$670,500		x		
Washinton Co.	Cooper Mountain (Area 67)	90%	$191,700				x
Washinton Co.	N. Bethany	90%	$1,170,000		x		
			$6,295,400				

CET Grant Distribution

Table 1 displays the jurisdictions and plans that have been allocated CET funds to conduct expansion area planning. The four columns on the right-hand show the progress of planning efforts as of March 2009. Eleven plans have been completed, eight are in progress, and six are yet to be commenced. Projects that have not been started were either awaiting other decision-making processes (for example, on the I-5/99W Connector) or were part of a series of plans being completed in phases by a jurisdiction (e.g. Washington County and Oregon City). The *New Planning Completed* and *New Planning Underway* columns refer to areas that received funds at a rate of 90 percent of the amount requested. The *Reimbursement Issued* column refers to sites that were funded at a rate of 75 percent, and have completed their required planning. The last column, *Planning & Reimbursements not yet Started*, refers to areas that have not yet commenced planning, or have not collected their reimbursements for planning completed or underway. Appendix D displays total CET collections and recipients by jurisdiction.

Next Steps

Measuring Success

The purpose of the construction excise tax was to secure funding for the planning required under Title 11 for areas added to the UGB from 2000-2005. The program has and continues to be successful in accomplishing this goal. More than half of new area plans identified by the stakeholder group are now complete, another third are progressing towards completion, and the remaining plans will be commenced soon.

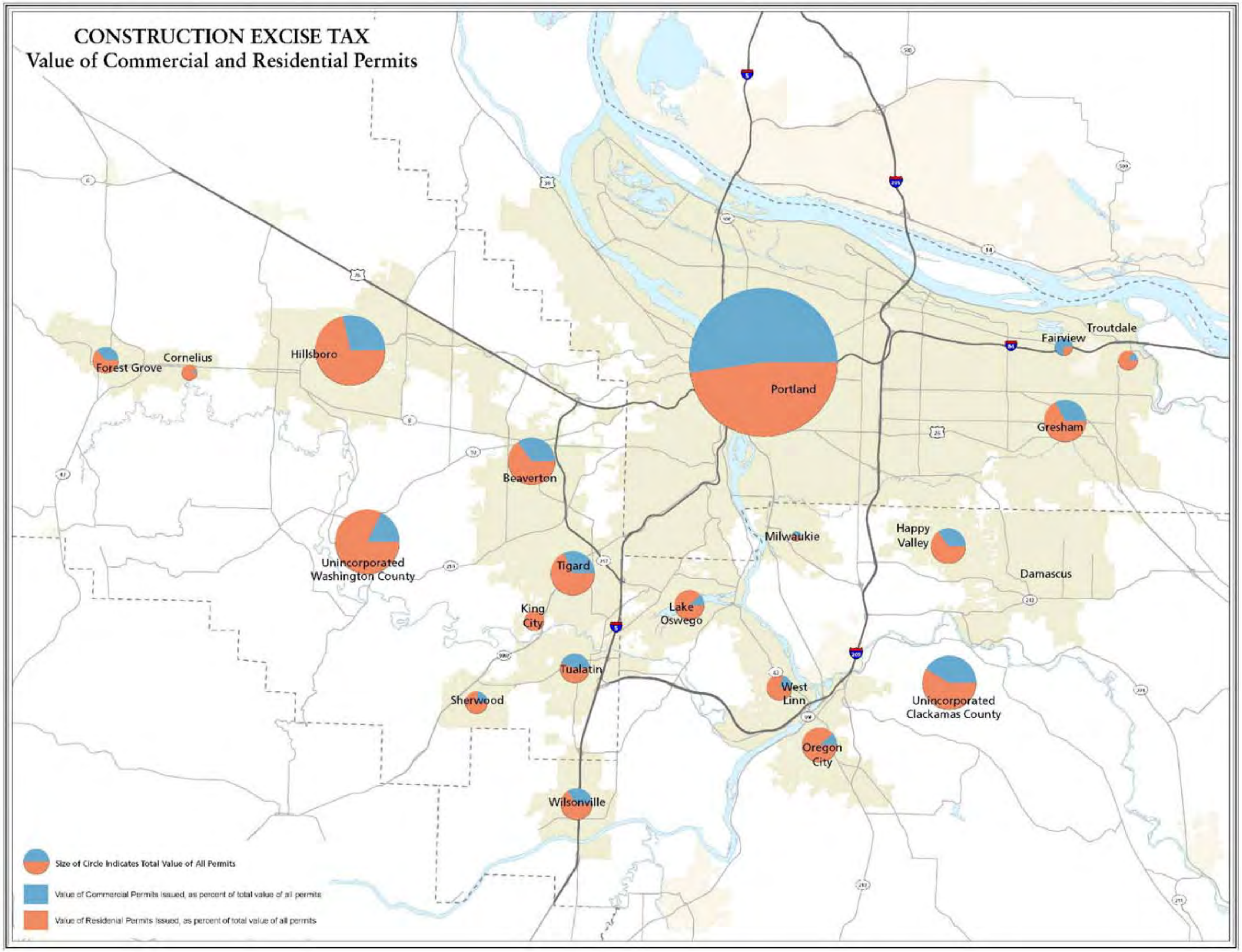
Stakeholders who convened to establish the CET program recognized that planning is necessary, but not sufficient to accomplish the region's growth and development goals. There was a shared understanding that to actualize the type of development these new area plans call for, the greater issues of infrastructure and basic service delivery must be addressed. Identifying a strategy to fund local and regional infrastructure is critical to accomplishing the various planning goals throughout the metropolitan area.

State CET Preemption

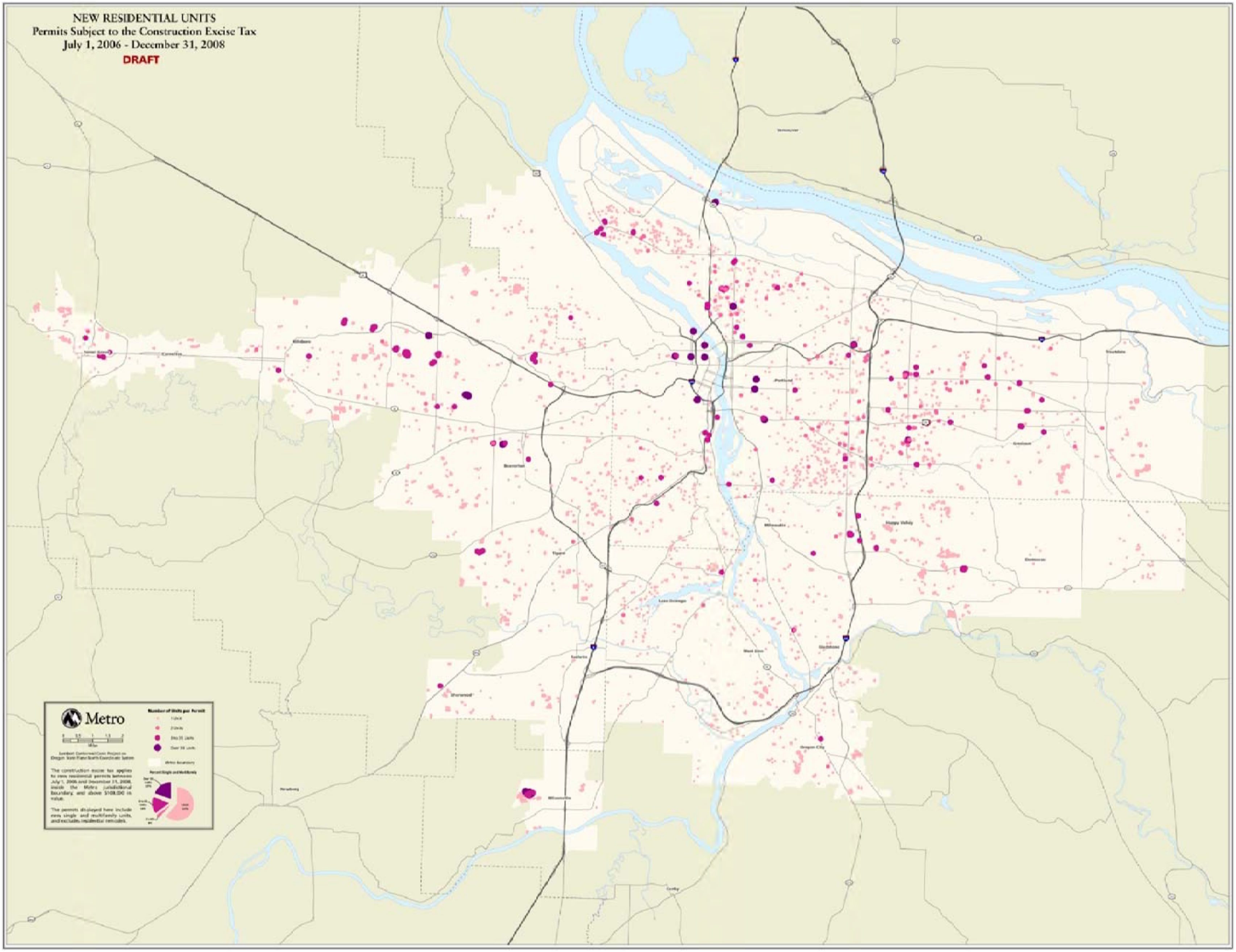
Since the Metro CET was established in 2006, state law regarding local taxing authority has changed, limiting local government's authority to levy excise taxes on construction. In 2007, the Oregon Legislature enacted Senate Bill 1036, which authorized school districts to levy a construction excise tax on new residential, commercial, and industrial construction to pay for school facility construction. However, the bill also prohibited the establishment of new construction excise taxes by other local governments. The state preemption expires in 2018. Existing CETs are "grandfathered" in – the local preemption does not apply to any tax "that is in effect as of May 1, 2007, or to the extension or continuation of such a tax, provided that the rate of tax does not increase from the rate in effect as of May 1, 2007". Thus, state law allows Metro to continue levying a CET so long as the rate does not change. However, if the tax is allowed to sunset, SB 1036 would prohibit the re-institution of an excise tax until 2018.

As the CET sunset approaches, Metro and its regional partners are considering the value of extending the tax to support a broader spectrum of planning needs throughout the region. If the tax sunsets, the tool will not be available again until 2018. Starting in April 2009, Metro will convene an advisory group whether to retain this taxing authority and discuss the range of options available for the CET, and make recommendations to Metro's Chief Operating Officer on what types of planning to support and how to distribute funds.

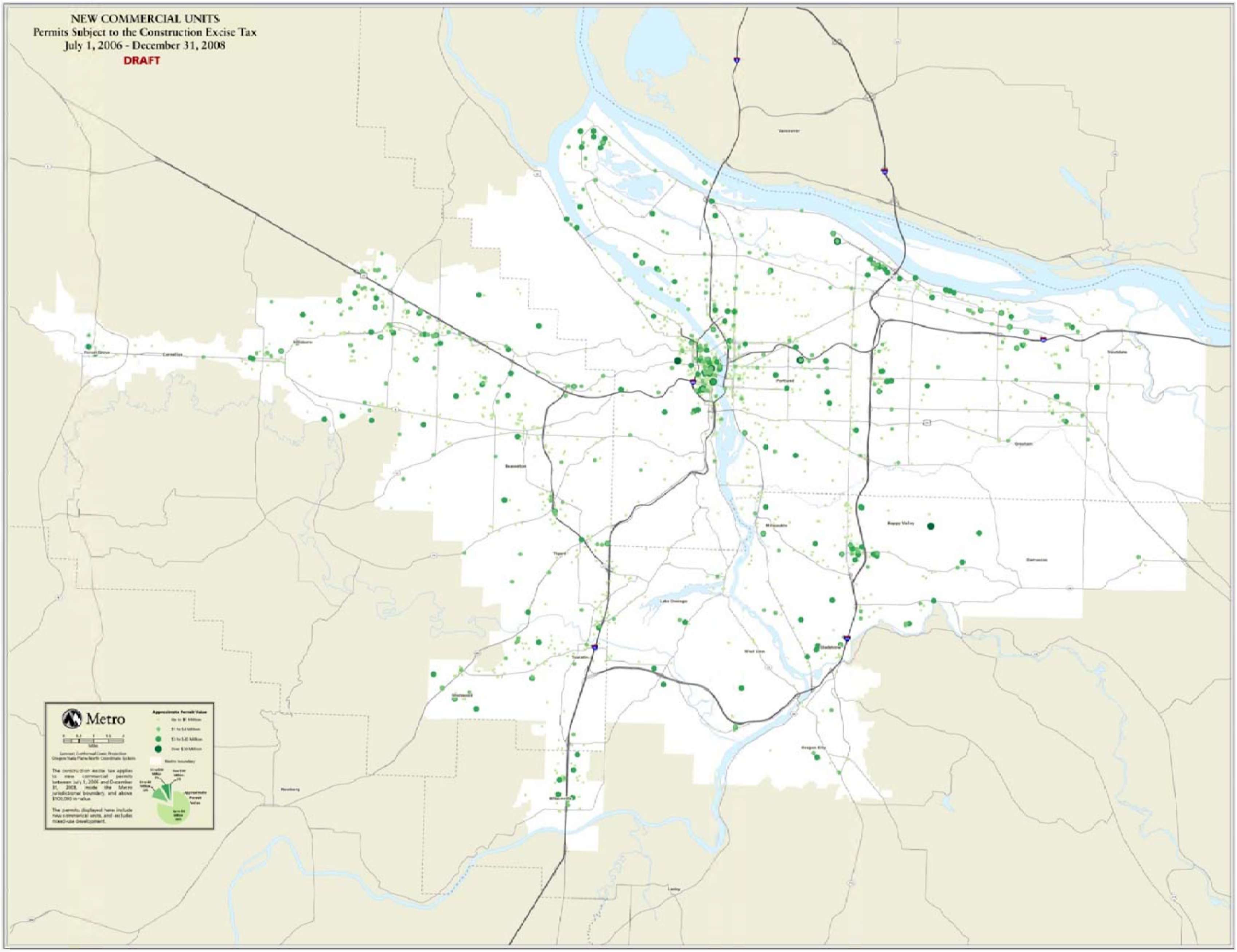
Appendix A


CONSTRUCTION EXCISE TAX
Value of Commercial and Residential Permits
Forest Grove
Cornelius
Hillsboro
Portland
Troutdale
Fairview
Gresham
Beaverton
Unincorporated Washington County
Tigard
Milwaukie
Happy Valley
Damascus
King City
Lake Oswego
Tualatin
Sherwood
West Linn
Unincorporated Clackamas County
Oregon City
Wilsonville
Size of Circle Indicates Total Value of All Permits
Value of Commercial Permits Issued, as percent of total value of all permits
Value of Residenial Permits Issued, as percent of total value of all permits

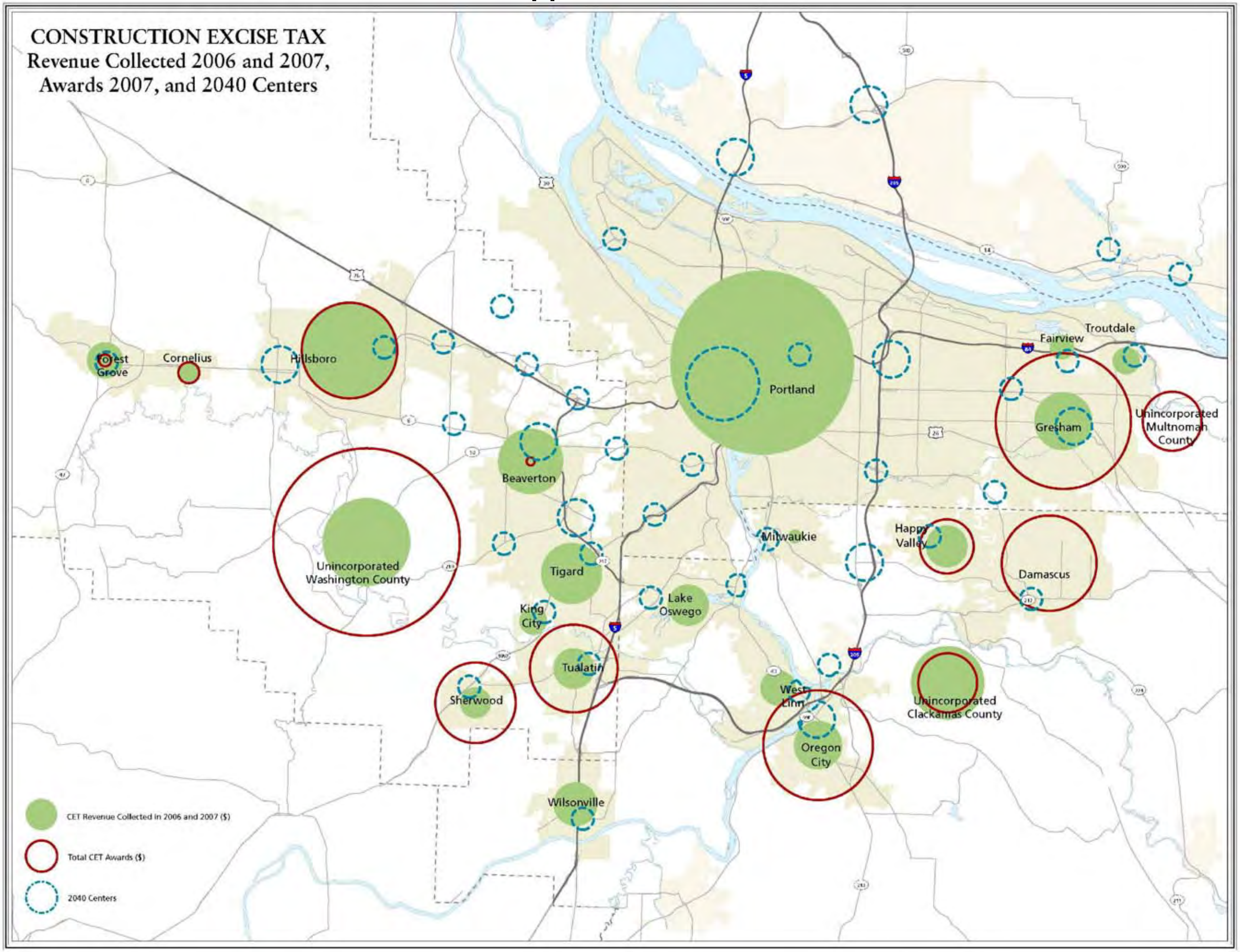
Appendix B


NEW RESIDENTIAL UNITS
Permits Subject to the Construction Excise Tax
July 1, 2006 - December 31, 2008
DRAFT
Metro

Appendix C


NEW COMMERCIAL UNITS
Permits Subject to the Construction Excise Tax
July 1, 2006 - December 31, 2008
DRAFT
Metro

Appendix D


CONSTRUCTION EXCISE TAX
Revenue Collected 2006 and 2007,
Awards 2007, and 2040 Centers
Forest Grove
Cornelius
Hillsboro
Portland
Fairview
Troutdale
Gresham
Unincorporated Multnomah County
Beaverton
Unincorporated Washington County
Tigard
King City
Lake Oswego
Milwaukie
Happy Valley
Damascus
Tualatin
Sherwood
West Linn
Oregon City
Unincorporated Clackamas County
Wilsonville
CET Revenue Collected in 2006 and 2007 ($)
Total CET Awards ($)
2040 Centers

[i] Disclaimer for Appendices A,-D: The information used to create these appendices was gathered from Construction Monitor and processed by Metro staff. Because this is third party data, not produced by Metro, it should only be used for general approximations. Metro staff cannot guarantee full accuracy of Construction Monitor data. The data reflect the total values of permits issued within the Metro service district for July 2006 through 2008 which were subject to CET. In addition, it should be noted that those permits which received exemptions for affordable housing and 501c(3) status have NOT been excluded from this analysis.