

# A G E N D A

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**METRO**

**MEETING: METRO TECHNICAL ADVISORY COMMITTEE**  
 DATE: October 7, 2009  
 DAY: Wednesday  
 TIME: 10:00 – 12 noon  
 PLACE: Room 370A&B

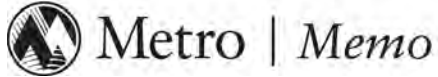
TIME	AGENDA ITEM	ACTION REQUESTED	PRESENTER(S)
<b>10:00 a.m.</b>	<b>CALL TO ORDER AND INTRODUCTIONS</b>		Chris Deffebach
<b>1.</b> (15 min.)	<b>MPAC Adoption Process</b>  <i>Objective: Describe the Fall 2009 MPAC Schedule &amp; MTAC's role</i>	Informational	Chris Deffebach Sherry Oeser
<b>2.</b> (45 min.)	<b>Urban Growth Report and Forecast</b>  <i>Objective: Review policy issues for preparing for MPAC discussions</i>	Discussion	Malu Wilkinson
<b>3.</b> (30 min.)	<b>Community Investment Toolkit – Employment Tools</b>  <i>Objective: MTAC comment on list of common challenges facing redevelopment for employment uses in industrial areas, employment areas, centers and corridors</i>	Discussion	Miranda Bateschell
<b>4.</b> (5 min.)	<b>Construction Excise Tax</b>  <i>Objective: Provide update on administrative rules and application process</i>	Informational	Gerry Uba
<b>12 Noon</b>	<b>ADJOURN</b>		

Next regularly scheduled meeting (MTAC meets the 1<sup>st</sup> & 3<sup>rd</sup> Wednesday of the month): October 21, 2009

For further information or to get on this mailing list, contact Paulette Copperstone @ [paulette.copperstone@oregonmetro.gov](mailto:paulette.copperstone@oregonmetro.gov) or 503-797-1562

Metro's TDD Number – 503-797-1804

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Date: October 2, 2009  
To: Metro Technical Advisory Committee  
From: Sherry Oeser, Metro  
Subject: MPAC Adoption Process for Making the Greatest Place

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As you know, several Making the Greatest Place resolutions will be considered this fall by MPAC and the Metro Council. At their September 23 meeting, MPAC compiled a list of issues they want to discuss prior to making recommendations to Metro Council. A copy of the issue list is attached. Metro staff is preparing information to assist MPAC in resolving these issues.

In the upcoming MTAC meetings, MTAC will have the opportunity to comment on these resolutions and develop comments and/or recommendations to MPAC. Attached is the Making the Greatest Place Fall 2009 Advisory Committee schedule that highlights the dates for MTAC, MPAC, TPAC, JPACT and Council discussion and action on the MGP resolutions. We will review this calendar and the issues at next week's MTAC meeting in preparation for advising MPAC throughout the fall.

# **Making the Greatest Place – Issues for further discussion by MPAC**

## Performance Measures

- Agreement to indicators
- Agreement to process for setting targets for each indicator
- Intervals for assessing targets – what happens when above or below the plan?
- Include enforcement in the discussion
- Discussion on agricultural performance measures - the health of urban agriculture
- Are the performance measures measured a regional or less than the regional level?
- Need to define local government actions and report out. Include infrastructure.
- Discuss specific geographic areas – e.g. Vancouver, WA performance measures
- Discuss state level performance measures
- Discuss the increase of commuters outside the region. Why?

## Investment Strategy

- Discuss the local investment strategy embedded in regional strategy.
- Definition of the cost/benefit analysis and discuss the return on investments.
- Address the timeline for the investment strategy decision points – e.g. RTP, UGR, etc. between 2009 – 10.
- Discuss how the region can make the urban and rural reserves decision in the investment timeframe.
- Financing: sources and locations.
- Audit of finance performance. Compare performance against previous plans. How have we done? The “doability” of our resources.
- Regional and state revenue sources

## Urban Growth Report

- Housing gap between demand and supply
- Employment gap between demand and supply
- Large Lot industrial gap between demand and supply
- Equity: Housing for whom?
- Affordable housing
- Discuss where the capacity lies in Washington, Multnomah and Clackamas Counties
- Discuss the affects of growth in satellite cities and its relation to the gap
- What happened in the previous plan with large parcels (???)
- Does, and should Metro have legal authority...large track employment...existing cities, agriculture parcels... ???????

- What policies changes need to be implemented in the cities to increase capacity?  
When/timeframe?
- \_\_\_\_\_ local government and what point?????
- Scenarios: growth and densities

## Regional Transportation Plan

- Corridor Refinement Plan priorities
- RTP Performance Targets
- Alternative Mobility Standards for state facilities in the Metro region. Need to get these changed earlier from the OTC.

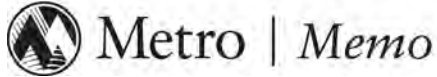
## Urban and Rural Reserves

- Scale of Urban and Rural Reserves
- Risks of "overdesignating" and "underdesignating"
- Discussion of undesignated areas
- Requirements for bringing Urban Reserves into the UGB.
- Discuss conditions for areas that cannot be urbanized into reserves (????)
- Distinction ???
- Discuss at what time the region would revisit/reconsider or update the reserves decision.
- Designation that buffers development or urban area and large scale agriculture.
- Overlay the reserves map with the region's employment needs. How does this compare?  
Does it meet sufficiently meet region's needs.
- Urban reserves: Consider short term timeframes for allocation. Tiered rating of which land will be utilized first.
- Distinction on rural reserves – agriculture for food versus agriculture for other needs
- Discuss expansion from Portland into Columbia County.
- Capacity estimates for urban reserves.
- Consequences for behavioural changes and credibility of those potential behavioral changes.  
E.g. wont lease land to farmers or increases in lease costs or equipment

**Making the Greatest Place Fall 2009 Advisory Committee Schedule**  
**Draft 10/2/09 subject to change**

	Week of September 14	Week of September 21	Week of September 28	Week of October 5	Week of October 12	Week of October 19	Week of October 26	Week of November 2	Week of November 9	Week of November 16	Week of November 30	Week of December 7	Week of December 14
<b>MTAC</b>	Briefing on COO recommendation			(10/7) MPAC adoption process; Discuss UGR, forecast		(10/21) Recommendation to MPAC on performance measures, & UGR, discuss RTP		(11/4) Recommendation to MPAC on UGR and RTP		(11/18) Comments to MPAC on reserves	TBD		
<b>MPAC</b>		Briefing on COO recommendation; UGR, RTP, Reserves including risks of designating too much or too little urban reserves			(10/14) Discuss UGR, forecast and performance measures	(10/23) Special Meeting: Reserves and RTP; UGR and performance measures as needed	(10/28) Recommendation to Council on Performance measures; <b>Deadline for proposed amendments on RTP and UGR</b>			(11/18) Recommendation to Metro Council on UGR and RTP; discuss Reserves IGAs; <b>deadline for proposed amendments on Reserves</b>		(12/9) Recommendation to Metro Council on Reserves IGAs	
<b>TPAC</b>		Briefing on COO recommendation; Discuss RTP issues					(10/30) RTP public comments; recommend performance measures			(11/20) Recommendation to JPACT on RTP Resolution			
<b>JPACT</b>		(invited to attend MPAC briefing)		(10/8) Briefing on COO recommendation; Discuss RTP policy issues				(11/2) Deadline for proposed JPACT amendments to RTP	(11/12) Discuss RTP issues and consider public comments			(12/10) Recommendation to Metro Council on RTP resolution	
<b>Council</b>	Briefing on COO recommendation					(10/21) Work Session, reserves	(10/26) Work session with Core 4 to discuss reserves	(11/2) Deadline for proposed Council amendments to RTP		(11/17) Work Session	(12/3) Action on Performance measure resolution Dec. 1: Deadline for Council amendments on UGR & Reserves	(12/10) Action on UGR and forecast resolution; action on reserve IGAs	(12/17) Action on RTP resolution
<b>Open houses &amp; hearings</b>		Open Houses: Sept. 21 -Hillsboro; Sept. 22 N. Portland Open house/hearing: Sept. 24 Beaverton	Open House/ Hearing Oct. 1 - Gresham	Open House/ Hearing Oct. 8 - Happy Valley	Open House / Hearings: Oct. 13 - Oregon City, Oct. 15 - Metro								
<b>Other (briefings &amp; stakeholders)</b>	Tigard City Council, OAN, Bi-State, CREEC, Mult. Co. Farm Bureau	N. Clack & Hillsboro Cham, LO CC, Clack. Co. EDC, CCA, S Metro Biz Alli RSC, C4, legislators	LCDC, Clack. Co. BCC, BTA, CLF, PBA	WCCC, EMCTC, NAIOP, Mult. Co. BCC, Boring CPO, Gresham Chamber, EMEA	CCBA, WEA	1000 Friends, Wash. Co. BCC, Wash. Co. Farm Bureau	WEA board, TriMet board						

Color Key:  
Regional Transportation Plan (RTP) issues = Blue  
Urban Growth Boundary (UGB)/Forecast issues = Green  
Urban and Rural Reserve (Reserves) issues = Red  
Performance measures = brown



Date: September 30, 2009  
To: Metro Council  
From: Michael Jordan, Chief Operating Officer  
Subject: Construction Excise Tax Administrative Rules

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I am pleased to announce the promulgation of administrative rules for the Construction Excise Tax (CET) program, which was recently extended to September 30, 2014. The CET Administrative Rules are attached hereto.

When the Council adopted Ordinance 09-1220 in June, 2009, you directed me to promulgate Administrative Rules to govern the extension of the existing CET program. The attached Administrative Rules are the result of months of work by an Advisory Committee as well as recommendations and input from Council, the Metropolitan Policy Advisory Committee (MPAC), and members of the public.

These Administrative Rules build upon the existing CET program established under Ordinance 06-1115 and Metro Code Chapter 7.04, for the purpose of funding regional and local planning that is required to make land ready for development.

I want to thank all of the individuals who were involved in the 2009 CET Advisory Committee, as well as those who took the time to provide comment and public testimony on the development of these Rules. I look forward to working with you as we carry out the planning activities that will be funded through this program.

## ADMINISTRATIVE RULES: METRO CODE CHAPTER 7.04

Effective July 1, 2006, and extended through September 30, 2014, Metro has established as Metro Code Chapter 7.04 a Construction Excise Tax (“CET”). These Administrative Rules establish the procedures for administering this tax as mandated in Metro Code Section 7.04.050 and Metro Code Section 7.04.060. For ease of reference a copy of Metro Code Chapter 7.04 is attached to these administrative rules.

### I. Metro Administrative Matters.

- A. Definitions. These administrative rules incorporate the definitions as set forth in Metro Code Section 7.04.030 of Chapter 7.04, Construction Excise Tax, and Chapter 3.07, the Urban Growth Management Functional Plan.
- B. Designated Representatives (Metro Code Section 7.04.060). The Metro Chief Operating Officer (“COO”) is responsible for the administration and enforcement of the Metro Code Chapter 7.04 and these administrative rules.
  - 1. The COO may delegate his authority in administration and enforcement of the Code chapter and these administrative rules as he determines and as set forth herein.
  - 2. The COO shall appoint a Hearings Officer(s), which appointment shall be confirmed by the Metro Council. The Hearings Officer(s) shall have the authority to order refunds or rebates of the Construction Excise Tax or waive penalties as a result of the hearings process. Upon appointing a Hearings Officer, the Chief Operating Officer shall delegate authority to the Hearings Officer to administer oaths, certify to all official acts, to subpoena and require attendance of witnesses at hearings to determine compliance with this chapter, rules and regulations, to require production of relevant documents at public hearings, to swear witnesses, to take testimony of any Person by deposition, and perform all other acts necessary to adjudicate appeals of Construction Excise Tax matters.
- C. Internal Flow of Funds. Funds will be accounted for in a Construction Excise Tax account that will be created by the effective date of Metro Code Chapter 7.04.
- D. Rate Stabilization Reserves. Metro Code Chapter 7.04.200 states that the Council will, each year, as part of the Budget process, create reserves from revenues generated by the CET. These reserves are to even out collections thereby stabilizing the funds needed to support the applicable programs despite industry building activity fluctuation. These reserves can only be drawn on to support the specific budgeted activities as discussed in Section I.E. of these administrative rules. Due to their restricted nature, these reserves shall be reported as designations of fund balance in Metro’s General Fund.
- E. Dedication of Revenues. Revenues derived from the imposition of this tax, netted after deduction of authorized local jurisdiction costs of collection and administration, will be solely dedicated to grant funding of the regional and local planning that is required to make land ready for development after inclusion in the Urban Growth Boundary.
- F. Rule Amendment. The Chief Operating Officer retains the authority to amend these administrative rules as necessary for the administration of the Construction Excise Tax.

### II. Construction Excise Tax Administration.

A. Imposition of Tax (Metro Code Section 7.04.070).

1. The CET is imposed on every Person who engages in Construction within the Metro jurisdiction, unless an Exemption applies as set forth herein.
2. The tax shall be due and payable at the time of the issuance of any building permit, or installation permit in the case of a manufactured dwelling, by any building authority, unless an Exemption applies as set forth herein.
3. The CET shall be calculated and assessed as of the application date for the building permit. Persons obtaining building permits based on applications that were submitted prior to July 1, 2006 shall not be required to pay the CET, unless the building permit issuer normally imposes fees based on the date the building permit is issued.
4. If no permit is issued, then the CET is due at the time the first activity occurs that would require issuance of a building permit under the State of Oregon Building Code.

B. Calculation of Tax (Metro Code Section 7.04.080). The CET is calculated by multiplying the Value of New Construction by the tax rate of 0.12%

(0.0012 x Value of New Construction)

- a. In the case of a Manufactured Dwelling for which no Exemption is applicable, and for which there is no building code determination of valuation of the Manufactured Dwelling, the applicant's good faith estimate of the Value of New Construction for the Manufactured Dwelling shall be used.

C. Exemptions (Metro Code Section 7.04.040).

1. Eligibility for Exemption. No obligation to pay the CET is imposed upon any Person who establishes, as set forth below, that one or more of the following Exemptions apply:
  - a. The Value of New Construction is less than or equal to One Hundred Thousand Dollars (\$100,000); or
  - b. The Person who would be liable for the tax is a corporation exempt from federal income taxation pursuant to 42 U.S.C. 501(c)(3), or a limited partnership the sole general partner of which is a corporation exempt from federal income taxation pursuant to 42 U.S.C. 501(c)(3), the Construction is used for residential purposes AND the property is restricted to being occupied by Persons with incomes less than fifty percent (50%) of the median income for a period of 30 years or longer; or
  - c. The Person who would be liable for the tax is exempt from federal income taxation pursuant to 42 U.S.C. 501(c)(3) AND the Construction is dedicated for use for the purpose of providing charitable services to Persons with income less than fifty percent (50%) of the median income.
2. Procedures for Establishing and Obtaining an Exemption; Exemption Certificates:



- a. For exemption (a) above, the exemption will be established at the building permit counter where the Value of New Construction as determined in the building permit is less than or equal to One Hundred Thousand Dollars (\$100,000).
- b. For exemptions (b) and (c) above, prior to applying for a building permit a Person claiming an exemption may apply to Metro for a Metro CET Exemption Certificate, by presenting the appropriate documentation for the exemption as set forth herein, and upon receiving a Metro CET Exemption Certificate the Person may present the certificate to the building permit issuer to receive an exemption from paying the CET; or
- c. For exemptions (b) and (c) above, instead of going to Metro to obtain a Metro CET Exemption Certificate, a Person claiming an exemption from the CET when applying for a building permit may submit to the building permit issuer Metro's CET Exemption Certificate application form. Upon receiving a Person's Metro CET Exemption Certificate application, the building permit issuer shall preliminarily authorize the exemption and shall not collect the CET. The building permit issuer shall forward the Person's Metro CET Exemption Certificate application to Metro along with the quarterly CET report. It shall be Metro's responsibility to determine the validity of the exemption and to institute collection procedures to obtain payment of the CET, as well as any other remedy Metro may have under law, if the Person was not entitled to the exemption;
- d. To receive a Metro CET Exemption Certificate from Metro, or to substantiate to Metro the validity of an exemption received from a local building permit issuer, an applicant must provide the following:
  - i. IRS tax status determination letter evidencing that the Person seeking the building permit is exempt from federal income taxation pursuant to 42 U.S.C. 501(c)(3); and
  - ii. In the case of residential property, proof that the property is to be restricted to low income persons, as defined, for at least 30 years. Proof can be in the form of loan covenants; rental agreements or grant restrictions; a certification from the entity's corporate officer attesting that the exemption is applicable; or any other information that may allow the exemption determination to be made; and
  - iii. In the case of a qualified tax-exempt entity providing services to Persons with incomes less than 50 percent of the median income, the applicant must provide information that will allow such tax exempt status to be verified, and proof that the property will be restricted to such uses. Proof can be in the form of loan covenants; rental agreements or grant restrictions; certification from the entity's corporate officer attesting that the exemption is applicable; or any other information that may allow the exemption determination to be made; and
  - iv. In the case of a limited partnership with a tax-exempt sole general partner corporation, verification from the partnership's attorney of that status is required; and

- v. Authorization to audit the records to verify the legal status and compliance with Metro qualifications of all entities claiming exempt status.
- e. Partial Applicability of Exemption. If an exemption is applicable to only part of the Construction, then only that portion shall be exempt from the CET, and CET shall be payable for the remainder of the Construction that is not eligible for an exemption, on a pro-rata basis. It shall be the responsibility of the Person seeking the partial exemption to fill out a Metro CET Exemption Certificate application for the partial exemption, declaring on that application the proportion of the Construction qualifies for the exemption. Upon receiving a Person's Metro CET Exemption Certificate application claiming a partial exemption, the building permit issuer shall preliminarily authorize the partial exemption and shall only collect the pro-rata CET as declared by the applicant. The building permit issuer shall forward the Person's Metro CET Exemption Certificate application to Metro along with the quarterly CET report. It shall be Metro's responsibility to determine the validity of the partial exemption and to institute collection procedures to obtain payment of the remainder of the CET, as well as any other remedy Metro may have under law, if the Person was not entitled to the partial exemption.

D. Ceiling (Metro Code Section 7.04.045).

- 1. If the CET imposed would be greater than \$12,000.00 (Twelve Thousand Dollars) as measured by the Value of New Construction that would generate that amount of tax, then the CET imposed for that Construction is capped at a Ceiling of \$12,000.00 (Twelve Thousand Dollars).
- 2. The Ceiling applies on a single structure basis, and not necessarily on a single building permit basis. For example:
  - a. If a single building permit is issued where the Value of New Construction is greater than or equal to Ten Million Dollars (\$10,000,000), then the CET for that building permit is capped at Twelve Thousand Dollars (\$12,000.00).
  - b. If Construction in a single structure will require multiple building permits during the pendency of the CET program, and the total CET that would be imposed for those building permits would add up to more than Twelve Thousand Dollars (\$12,000.00), then the total CET for those building permits within the same structure during the pendency of the CET program is capped at Twelve Thousand Dollars (\$12,000.00). Once a total of \$12,000.00 has been paid in CET for a particular structure, then no additional CET will be collected for that structure during the pendency of the CET program.

E. Rebates (Metro Code Section 7.04.120). If a CET has been collected and a CET Exemption or the CET Ceiling was applicable, a rebate for the CET may be obtained from Metro.

- 1. Procedures for obtaining rebate are:
  - a. Within thirty (30) days of paying the CET, the Person who believes that the CET was not applicable due to a CET exemption or CET Ceiling, shall apply for a rebate in writing to Metro and provide verification that the exemption eligibility provisions of Metro Code Section 7.04.040, or that the CET Ceiling provisions of Metro Code

Section 7.04.045, have been met. Failure to seek a rebate within the thirty (30) day time limit will terminate a Person's right to seek a rebate.

- b. Applicant shall provide proof that the CET was paid, in the form of a paid receipt from the building permit issuer showing the tax was paid. All supporting documentation for the exemption or ceiling shall be submitted at the time of the rebate claim. The rebate will only be made to the name that is listed on the receipt unless the applicant has a written assignment of rebate.
- c. A rebate or a letter of denial shall be issued by Metro within thirty (30) days of receipt of a written request for rebate provided that the request includes all required information. The rebate will be calculated based upon the paid receipt, less the five percent (5%) administrative fee already retained by the building permit issuer and the two-and-a-half percent (2.5%) Metro administration fee.

F. Refunds (Metro Code Section 7.04.150). If a CET has been collected and the Construction was not commenced and the building permit was cancelled, a refund for the CET may be obtained from Metro.

- 1. Eligibility is determined by the absence of Construction and cancellation of the building permit.
- 2. Procedures for obtaining refund:
  - a. Apply in writing to Metro within thirty (30) days of permit cancellation.
  - b. Provide copy of canceled permit.
  - c. Provide proof of payment of the tax in the form of the paid receipt.
  - d. A refund or a letter of denial shall be issued by Metro within thirty (30) days of receipt of the written request for refund provided that the request includes all required information. The refund will be calculated based upon the paid receipt, less the five percent (5%) administrative fee already retained by the building permit issuer and the two-and-a-half percent (2.5%) Metro administration fee.
  - e. Failure to seek a rebate within the thirty (30) day time limit will terminate a Person's right to receive a refund.

G. Appeals. The Hearings Officer shall conduct hearings related to enforcement or appeals of the CET. The appeal to the Hearings Officer must be:

- 1. In writing;
- 2. Made within ten (10) calendar days of denial of a refund, rebate, or exemption request. Notice of denial to the party denied, is deemed to have occurred three days after the mailing of the certified denial letter from Metro;
- 3. Tax must be paid prior to appeal;

4. Directed to the Office of Metro Attorney, who will contact the Hearings Officer to schedule a hearing upon receipt of a written appeal. The Hearings Officer will at that time provide further information as to what documentation to bring to the hearing.
- H. Review. Review of any action of the Chief Operating Officer or Hearings Officer, taken pursuant to the Construction Excise Tax Ordinance, or the rules and regulations adopted by the Chief Operating Officer, shall be taken solely and exclusively by writ of review in the manner set forth in ORS 34.010 through 34.100, provided, however, that any aggrieved Person may demand such relief by writ of review.
- I. CET Sunset (Metro Code Section 7.04.230).
1. 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 September 30, 2014.
  2. Local governments collecting CETs shall remit the CETs to Metro on a quarterly or monthly basis, based on the jurisdiction's CET Collection IGAs with Metro. Each quarter, within thirty days of receiving CET remittances from all collecting local jurisdictions, Metro will issue a written statement of the total CET that Metro has received that quarter and cumulatively.
  3. CET remittance to Metro shall be net of the local government's administrative expenses in collecting the CET, up to five percent (5%) of the CET collected by the local government as set forth in the Metro CET Collection IGA. This net amount of CET remitted to Metro shall be the basis for Metro's calculations of CET cumulative totals and for the calculation of when the \$6.3 million CET has been reached.
  4. The CET shall cease to be imposed by local governments on September 30, 2014, and shall be remitted by the local governments to Metro as soon thereafter as possible.

### **III. CET Collection Procedures.**

- A. Local Government CET Collection and Remittance Via Intergovernmental Agreements (Metro Code Section 7.04.110). For those local governments collecting the CET pursuant to Intergovernmental Agreements with Metro, the following procedures shall apply:
1. CET Report; Information Required. Each quarter (unless a local government prefers to report monthly), along with its CET remittance to Metro, the local government shall prepare and submit to the Metro Chief Operating Officer a report of the CETs and building permits issued for the previous quarter's construction activities. The report shall include: the number of building permits issued that quarter; the aggregate value of construction; the number of building permits for which CET exemptions were given; the aggregate value of construction for the exempted construction; the aggregate amount of CET paid; and the amount of CET administrative fee retained by the local government pursuant to this CET Collection IGA.
  2. CET Remittance to Metro. Local governments collecting CET via IGAs with Metro shall remit the collected CET to Metro. Remittance shall be quarterly, unless a jurisdiction prefers to remit the CET monthly, by the 30<sup>th</sup> of the month following the quarter (or month) ending. Quarters end on September 30, December 31, March 31 and June 30 of each year.

CET remittance and the CET Report shall be sent to Metro, attn Construction Excise Tax Accounting Specialist, 600 NE Grand, Portland, Oregon 97232.

3. Remuneration to Local Government for Collecting CET. As consideration for collecting the CET, each local government collecting the CET shall retain no more than five percent (5%) of the tax collected by that local government. This payment is intended to be a reimbursement of costs incurred. Prior to submitting the CET to Metro, the local government shall deduct the remuneration agreed upon directly from the collected tax, and the amounts deducted and retained shall be identified on the report submitted to Metro.
  4. Metro Administrative Fee. To partially reimburse Metro for its costs in implementing and administering the CET program, Metro will retain two-and-a-half percent (2.5%) of the net CET funds remitted by local governments to Metro.
  5. Audit and Control Features. Each local government shall allow the Chief Operating Officer, or any person authorized in writing by the Chief Operating Officer, to examine the books, papers, building permits, and accounting records relating to any collection and payment of the tax, during normal business hours, and may investigate the accuracy of reporting to ascertain and determine the amount of CET required to be paid.
  6. Failure to Pay. Upon a Person's refusal to or failure to pay the CET when due, the local government administering that Person's building permit shall notify Metro in writing within five (5) business days of such failure, with information adequate for Metro to begin collection procedures against that Person, including the Person's name, address, phone numbers, Value of New Construction, Construction Project, and building permit number. Upon a Person's refusal or failure to pay the CET, it shall be Metro's responsibility to institute collection procedures to obtain payment of the CET as well as any other remedy Metro may have under law.
- B. Metro Collection Procedures in Event of Non-payment. The CET is due and payable upon issuance of a building permit. It is unlawful for any Person to whom the CET is applicable to fail to pay all or any portion of the CET. If the tax is not paid when due, Metro will send a letter notifying the non-payer of his obligation to pay the CET along with the following information:
1. Penalty. In addition to any other fine or penalty provided by Chapter 7.04 of the Metro Code, penalty for non- payment will be added to the original tax outstanding. That penalty is equal to fifty dollars (\$50.00) or the amount of the tax owed, whichever is greater.
  2. Misdemeanor. In addition to any other civil enforcement, non- payment of the CET is a misdemeanor and shall be punishable, upon conviction, by a fine of not more than five hundred dollars (\$500.00). This fine shall be charged to any officer, director, partner or other Person having direction or control over any Person not paying the tax as due.
  3. Enforcement by Civil Action. If the tax is not paid, Metro will proceed with collection procedures allowable by law to collect the unpaid tax, penalties assessed and fines due, including attorney fees.

**IV. Revenue Distribution (Metro Code Section 7.04.220).**

**A. Grant Cycles.** CET funds collected pursuant to the 2009 extension of the CET shall be allocated in two new application assessment cycles.

1. The first new grant allocation cycle shall take place in FY 2009-2010, which shall allocate up to \$3.5 million in CET Grants. Grant Requests in this cycle may be made for planning in all areas that are in the Urban Growth Boundary as of December 2009.

2. The second new grant allocation cycle shall take place in FY 2011-2012, and shall allocate the remainder of the expected CET collections for this cycle. Grant Requests in this cycle may be made for planning in all areas that are in the Urban Growth Boundary as of December 2009, plus New Urban Areas and Urban Reserves.

3. The second new grant allocation cycle shall earmark fifty percent (50%) of projected second-cycle CET revenues for planning in New Urban Areas and Urban Reserves. If the amount of qualified Grant Requests for New Urban Areas and Urban Reserves does not equal or exceed the earmarked amounts, the remainder of funds shall be allocated to second-cycle Grant Requests for planning in other areas.

4. These cycles may be delayed or amounts reduced if the actual CET receipts remitted by the local governments are not as high as projected, or if CET revenue projections are modified due to market conditions.

5. Metro may conduct a third allocation cycle if, after December 2011, the Metro Chief Operating Officer finds that CET receipts are projected to exceed the grant amounts awarded in the first two cycles.

**B. CET Grant Screening Committee (“Committee”).**

1. Role. A CET Grant Screening Committee (“the Committee”) shall be created, which Committee shall review Grant Requests submitted by local governments. The Committee shall advise and recommend to the Metro Chief Operating Officer (“COO”) the ranking and recommended grant amounts, and whether to grant full, partial, or no awards, in accordance with the CET Grant Evaluation Criteria set forth below. The COO shall review the Committee’s recommendations and shall forward his own grant recommendations, along with the recommendations of the CET Grant Screening Committee, to the Metro Council. The Metro Council shall make final grant decisions in a public hearing.

2. CET Grant Screening Committee Members. The Committee, including the Committee Chair, will be selected by the Metro COO. In appointing Committee members, the Metro COO shall make every effort so that no one jurisdiction or geographic location is disproportionately represented on the Committee. The Committee will be composed of nine individuals representing a variety of expertise from public and private interests as set forth below, plus one non-voting Metro Councilor to serve as a Metro Council liaison. A committee member may have more than one expertise. The nine-member Committee shall include:

- One member with expertise in economic development;
- One member with expertise in urban planning;
- At least one member with expertise in real estate and finance;

- One member with expertise in infrastructure finance relating to development or redevelopment;
- One member with expertise in local government;
- One member with expertise in urban renewal and redevelopment;
- One member with expertise in business and commerce;
- One member from a Neighborhood Association or Community Planning Commission with an understanding of community livability issues; and
- One member with expertise in environmental sustainability relating to development or redevelopment.

C. Grant Screening Committee Review of Grant Requests.

1. Metro staff shall forward the Grant Requests to the members of the Grant Screening Committee, and will provide staff assistance and a staff recommendation to the Committee.
2. The CET Grant Screening Committee shall then review the Grant Requests and evaluate them based on the CET Grant Evaluation Criteria set forth above. The Committee may consult with the proponent of the Grant Request or any others in reviewing the request.
3. After analyzing the Grant Requests, the Committee shall forward to the Metro COO the Committee's recommended ranking and grant amounts for each of the Grant Requests.
4. The Metro COO shall review the Committee's recommendations and shall forward his own grant recommendations, based on the CET Grant Evaluation Criteria set forth above, along with the recommendations of the CET Grant Screening Committee, to the Metro Council. The Metro Council shall decide, in a public hearing, whether or not to approve funding of any grants, and the amount of each grant.

D. Metro Council Grant Approval. The Metro Chief Operating Officer ("Metro COO") shall review the Committee's recommendations and shall forward his own grant recommendations, along with the recommendations of the CET Grant Screening Committee, to the Metro Council. The Metro Council shall make final grant decisions in a public hearing.

E. Procedures for Distribution.

1. **Step One: Pre-Grant-Letter of Intent.** Prior to making a written request to Metro for CET grant funds, each Grant Applicant that anticipates requesting CET grant funds in the initial cycle shall submit a Letter of Intent to Metro.
  - a. **Grant Applicant.** CET Grant applicants shall be cities or counties within the Metro boundary. Other local governments, as defined in ORS 174.116, may apply for a CET Grant only in partnership with a city or county within the Metro boundary.
  - b. **Letter of Intent Submission Date.** For Grant Requests in the first allocation cycle, Letters of Intent shall be submitted to Metro within three (3) months of the effective date of the extension to the CET program, i.e., by December 9th, 2009, unless a different date is mutually agreed upon by Metro and the local government. For Grant Requests in the second allocation cycle, Letters of Intent shall be submitted to Metro by December 9th, 2011, unless a different date is mutually agreed upon by Metro and the local government.

c. Letter of Intent Content. The Letter of Intent shall set forth the local government’s proposed planning project, the requested grant amount, how the project will address the CET Grant Evaluation Criteria, and proposed milestones for grant payments. Grant requests to reimburse local governments for planning work already completed shall not be considered. Metro staff shall review the Letter of Intent and work with the proposer, if necessary, to revise the proposal if additional information is needed for the Grant Request.

2. **Step Two: Grant Request.** After submitting the Letter of Intent, and after working with Metro staff, if necessary, to revise the proposal, Grant Applicants seeking distribution of CET expected revenues shall submit a written Grant Request to the Metro Chief Operating Officer, with a copy for each member of the CET Grant Screening Committee.

a. Grant Evaluation Criteria. For Grant Requests in the first allocation cycle, the Grant Request shall specifically address how the proposed grant achieves, does not achieve, or is not relevant to, the following criteria (“CET Grant Evaluation Criteria”), drawn from the Urban Growth Management Functional Plan. Prior to the second grant allocation cycle, the Metro COO shall issue supplemental criteria to evaluate New Urban Areas and Urban Reserves.

- 1) Expected Development Outcomes: Explain how the proposed planning grant will increase ability to achieve on-the-ground development/redevelopment outcomes. Address:
  - a. the expected probability that due to this planning grant, development permits will be issued within two years;
  - b. the expected probability that due to this planning grant, development permits will be issued within five years;
  - c. the level of community readiness and local commitment to the predicted development outcomes; considerations include:
    - (1) Development sites of adequate scale to generate critical mass of activity;
    - (2) Existing and proposed transportation infrastructure to support future development;
    - (3) Existing urban form provides strong redevelopment opportunities;
    - (4) Sound relationship to adjacent residential and employment areas;
    - (5) Compelling vision and long-term prospects;
  
- 2) Regionally Significant: Clearly identify how the proposed planning grant will benefit the region in achieving established regional development goals and outcomes, expressed in the 2040 Growth Concept and the six Desired Outcomes adopted by the region to guide future planning, which include:
  - a. People live and work in vibrant communities where they can choose to walk for pleasure and to meet their everyday needs;
  - b. Current and future 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.
- 3) Location: Discuss whether and how the proposed planning grant facilitates development or redevelopment of:
- a. Centers;
  - b. Corridors/Main Streets;
  - c. Station Centers; and/or
  - d. Employment & Industrial Areas.
- 4) Best Practices Model. Consideration will also be given to applications that can be easily replicated in other locations and demonstrate best practices.
- 5) Leverage/Matching Potential: Discuss whether and how the proposed planning grant will leverage outcomes across jurisdictions and service providers, or create opportunities for additional private/public investment. Investments can take the form of public or private in-kind or cash contributions to the overall planning activity.
- 6) Equity: Discuss whether and how the proposed planning grant will further the equitable distribution of funds, based on collections of revenues, past funding, and planning resource needs.
- b. Proposed Scope of Work, Milestones, and Budget. The Grant Request shall include a proposed scope of work and budget, setting forth the expected completion dates and costs for achieving the Urban Growth Management Functional Plan milestones proposed in the Grant Request. Milestones and grant payment allocations should follow the following general guidelines:
- 1) Execution of the CET Grant IGA
  - 2) Grant Applicant staff's draft or proposed plan, report, code change, zoning change, redevelopment plan, Urban Growth Diagram, Concept Plan, urban services delivery plan, or other plan or agreement consistent with the CET Grant;
  - 3) Grant Applicant staff's final recommended plan, report, code change, redevelopment plan, zoning change, Comprehensive Plan or Comprehensive Plan amendment, development agreement, urban services delivery plan, or other plan or agreement consistent with the CET Grant, addressing compliance with the Urban Growth Management Functional Plan, the applicable conditions of the CET Grant, and applicable state laws and regulations; and
  - 4) Grant Applicant's adoption of final plan, report, code change, redevelopment plan, zoning change, Comprehensive Plan or Comprehensive Plan amendment, urban services delivery plan, or other plan or agreement consistent with the CET Grant, consistent with the Functional Plan, the applicable conditions of the CET Grant, and applicable state law.

c. Grant Screening Committee Review of Grant Request . The Grant Screening Committee shall review and advise the COO as to the Committee’s grant recommendations as set forth in Section IV C above.

**3. Step Three: Grant Agreement (“Grant IGA”).** Metro and the Grant Applicant shall enter into a Grant Agreement (“Grant IGA”) or, at the Grant Applicant’s request, the Metro Chief Operating Officer shall issue a Grant Letter, for the grant amount determined by the Metro Council. The IGA or Grant Letter shall set forth an agreed-upon scope of work and budget, expected milestone completion dates, and Grant payment dates. The COO shall retain the right to terminate a CET Grant if the milestones set forth in the Grant IGA are not met within the timeframes set forth in the Grant IGA.

a. Grant Payment Dates. Grant payments shall be made upon the completion of those milestones set forth in the Grant Agreements, as determined by Metro in accordance with the requirements of the Metro Code and the Grant Agreement. In general, a portion of the Grant funds shall be distributed upon execution of a Grant Agreement with Metro, with the remainder of the Grant being paid out as progress payments upon completion of the milestones set forth above and in the Grant Agreement.

b. Eligible Expenses.

1. The following expenses shall be considered Eligible Expenses for CET Grant consideration for eligible direct costs, which will have priority for funding over indirect costs:

- i. Materials directly related to project;
- ii. Consultants’ work on project;
- iii. Grant Applicant staff support directly related to project;  
and
- iv. Overhead directly attributable to project;

2. If the total Grant Requests from participating Grant Applicants exceed the total CET actual revenues, Metro shall first consider awarding funds for eligible direct costs, which will have priority for funding over indirect costs.