

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF APPROVING)	RESOLUTION NO. 15-4595
AMENDED CONSTRUCTION EXCISE TAX)	
ADMINISTRATIVE RULES PROPOSED BY)	Introduced by Chief Operating Officer Martha
THE METRO CHIEF OPERATING OFFICER)	Bennett in concurrence with Council
FOR THE COMMUNITY PLANNING AND)	President Tom Hughes
DEVELOPMENT GRANT PROGRAM)	

WHEREAS, in 2006 the Metro Council adopted Ordinance 06-1115, titled, “An Ordinance Creating a New Metro Code Chapter 7.04 Establishing a Construction Excise Tax,” which ordinance created a construction excise tax (“CET”) to generate revenue for providing grants to local governments for regional and local planning (“2006 CET Ordinance”); and

WHEREAS, the 2006 CET Ordinance contained a sunset provision based on a maximum amount collected of \$6.3 million, which amount was reached in 2009; and

WHEREAS, on recommendation of an advisory group and the Metro Chief Operating Officer (“COO”) regarding the continuing need for funding regional and local planning, on June 11, 2009, the Metro Council adopted Ordinance 09-1220, extending the CET for an additional five year period, with a sunset date of September 30, 2014; and

WHEREAS, the CET has successfully raised approximately \$14 million in revenue that has been distributed by Metro to local governments through the Community Planning and Development Grant (“CPDG”) program for planning work across the region that otherwise could not have been funded; and

WHEREAS, on recommendation of an advisory group and the Metro COO, on June 19, 2014, the Metro Council adopted Ordinance 14-1328, extending the Metro CET for an additional five year period (“2014 CET Ordinance”), with a new sunset date of December 31, 2020; and

WHEREAS, the 2014 CET Ordinance directed the Metro COO to propose amendments to the existing administrative rules implementing the CET and CPDG programs under Metro Code Chapter 7.04 (“Administrative Rules”) and to return to the Metro Council for its approval of the revised Administrative Rules prior to promulgating them; and

WHEREAS, the Metro COO presented her proposed Administrative Rule amendments to the Metro Policy Advisory Committee (“MPAC”) on February 25, 2015, and MPAC voted to recommend approval of the Administrative Rule amendments; and

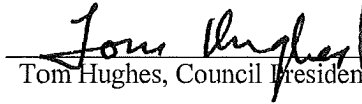
WHEREAS, the Metro Council finds that the amendments to the Administrative Rules proposed by the Metro COO and recommended for approval by MPAC are consistent with the 2014 CET Ordinance and Metro Code Chapter 7.04, and will improve the process for implementing the CET and CPDG programs; now therefore

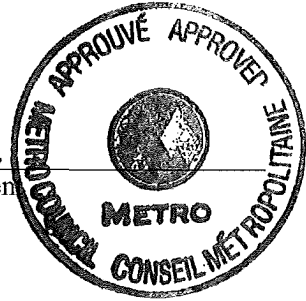
THE METRO COUNCIL RESOLVES AS FOLLOWS:

1. The amendments to the Administrative Rules proposed by Metro COO Martha Bennett attached hereto as Exhibit A are hereby approved; and

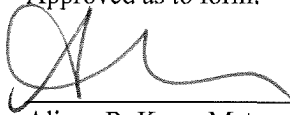
2. The Metro COO is directed to promulgate the amended Administrative Rules consistent with Chapter 7.04 of the Metro Code.

ADOPTED by the Metro Council this 19th day of March 2015.


Tom Hughes, Council President



Approved as to form:



Alison R. Kean, Metro Attorney

ADMINISTRATIVE RULES: METRO CODE CHAPTER 7.04
[Revised March 2015]

Effective July 1, 2006, and extended through December 31, 2020, Metro has established as Metro Code Chapter 7.04 a Construction Excise Tax (“CET”) to fund Community Planning and Development Grants (“CPDG”). 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, after consultation with Metro Council.

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 five percent (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 five percent (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 December 31, 2020.
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.
4. The CET shall cease to be imposed by local governments on December 31, 2020, 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 30th 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 five percent (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 2014 extension of the CET shall be allocated in three new application assessment cycles (Cycle 4, Cycle 5 and Cycle 6).

1. The Cycle 1 fund distribution took place in March 2006, which allocated up to \$6.3 million in grants. Grant requests in this cycle were made for planning only in new areas that were brought into the Urban Growth Boundary (UGB) between 2002 and 2005.
2. The Cycle 2 grant allocation through the Community Planning and Development Grant program (CPDG) took place in June 2010, which allocated up to \$3.57 million in CET Grant revenue. Grant requests in this cycle were made for planning in all areas inside the UGB as of December 2009.
3. The Cycle 3 grant allocation took place in August 2013, which allocated \$4.5 million in grants. Grant requests in this cycle were made for planning in all areas that are in the UGB as of December 2009, plus areas added to the UGB since 2009 and Urban Reserves. This cycle earmarked fifty percent (50%) of projected CET revenues for planning in areas added to the UGB since 2009 and Urban Reserves, and required that if the amount of qualified Grant Requests for areas added to the UGB since 2009 and Urban Reserves does not equal or exceed the earmarked amounts, the remainder of funds may be allocated to Grant Requests for planning in other areas.
4. The Cycle 4 grant allocation shall take place in 2015-2016 for planning in all areas that are in the UGB and Urban Reserves. This grant allocation shall earmark seventy percent to seventy five percent (70% to 75%) of projected revenue for planning within the existing UGB, and earmark twenty five percent to thirty percent (25% to 30%) of projected revenue for concept planning and comprehensive planning for urban reserves and new urban areas, and require that if the amount of qualified Grant Requests for areas added to the UGB since 2009 and Urban Reserves does not equal or exceed the earmarked amounts, the remainder of funds may be allocated to Grant Requests for planning in other areas.
5. The Cycle 5 grant allocation shall take place in 2017-2018 for planning in all areas that are in the UGB and Urban Reserves. This grant allocation shall earmark seventy percent to seventy five percent (70% to 75%) of projected revenue for planning within the existing UGB, and earmark twenty five percent to thirty percent (25% to 30%) of projected revenue for concept planning and comprehensive planning for urban reserves and new urban areas, and require that if the amount of qualified Grant Requests for areas added to the UGB since 2009 and Urban Reserves does not equal or exceed the earmarked amounts, the remainder of funds may be allocated to Grant Requests for planning in other areas.
6. The Cycle 6 grant allocation shall take place in 2019-2020 for planning in all areas that are in the UGB and Urban Reserves. This grant allocation shall earmark seventy percent to seventy five percent (70% to 75%) of projected revenue for planning within the existing UGB, and earmark twenty five percent to thirty percent (25% to 30%) of projected revenue for concept planning and comprehensive planning for urban reserves and new urban areas, and require that if the amount of qualified Grant Requests for areas added to the UGB since

2009 and Urban Reserves does not equal or exceed the earmarked amounts, the remainder of funds may be allocated to Grant Requests for planning in other areas.

7. 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, or if required by Metro's spending cap limitations.
8. Metro may conduct additional allocation cycles if the Metro Chief Operating Officer finds that CET receipts are projected to exceed the grant amounts awarded in Cycle 4 and Cycle 5 and Cycle 6.

B. CPDG Screening Committee.

1. Role. A CPGD Screening Committee ("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 grant Evaluation Criteria set forth below. The COO shall review the Committee's recommendations and shall forward her/his own grant recommendations, along with the recommendations of the Committee, to the Metro Council. The Metro Council shall make final grant decisions in a public hearing. A new CPGD Screening Committee shall be established for Cycle 4, Cycle 5 and Cycle 6 grants, but may include members from the previous Committees.
2. CPDG Screening Committee Members. The COO shall appoint six to nine members to the Committee, including the Committee Chair. Skill sets to be represented will be composed of the following expertise:
 - Economic development;
 - Urban planning;
 - Real estate and finance;
 - Infrastructure finance relating to development or redevelopment;
 - Local government;
 - Urban renewal and redevelopment;
 - Business and commerce;
 - Neighborhood Association or Community Planning Commission with an understanding of community livability issues; and
 - Environmental sustainability relating to development or redevelopment.
 - Social equity relating to community development and redevelopment planning

C. CPDG Screening Committee Review of Grant Requests.

1. Metro staff shall forward the letters of intent and Grant Requests to the members of the Committee, and will provide staff assistance to the Committee.
2. The Committee shall then review the Grant Requests and evaluate them based on the CPGD Evaluation Criteria set forth below. The Committee shall use the criteria as guidelines for evaluating applications. 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 her/his own grant recommendations, based on the CPDG Requests Evaluation Criteria set forth below, along with the recommendations of the 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 COO shall review the Committee’s recommendations and shall forward her/his own grant recommendations, along with the recommendations of the 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 request to Metro for CPDG funds, each Grant Applicant that anticipates requesting CPDG funds in Cycle 4, Cycle 5 and Cycle 6 shall submit electronic Letter of Intent to the Metro COO.
 - a. Grant Applicant. CPDG applicants shall be cities or counties within the Metro boundary. Other local governments, as defined in ORS 174.116, may apply for a CPDG only in partnership with a city or county within the Metro boundary.
 - b. 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 CPDG Request Evaluation Criteria, and proposed milestones for grant payments. Metro staff and the grant applications Screening Committee shall review the Letter of Intent and Metro staff will send comments to the local governments.
 2. **Step Two: Grant Request.** After submitting the Letter of Intent, and after working with Metro staff and Screening Committee if necessary, to revise the proposal, Grant Applicants shall submit an electronic Grant Request to the Metro Chief Operating Officer. The grant request shall include support of the governing body and matching fund commitment with allocation of fund and/or staff resources for the proposed project.

A) Grant Request Evaluation Criteria for proposed projects within the current UGB.

For proposed projects within the UGB, the Grant Request shall specifically address how the proposed grant achieves, does not achieve, or is not relevant to, the following criteria (“CPDG Grant Evaluation Criteria”), consistent with the intent of the Urban Growth Management Functional Plan. Applicants should refer to the Application Handbook for information and guidance regarding how to address specific evaluation criteria set forth below.

- 1) Expected Development Outcomes: Explain what planning activities are proposed to be undertaken with the planning and development grant, and how those activities will identify and reduce the barriers to developing complete communities. Address:
 - a) Identification of opportunity site/s within the boundary of the proposed project area with catalyst potential that focus on jobs growth and/or housing. Explain the characteristics of the site/s and how the proposed project will lead to a catalytic investment strategy with private and public sector support.
 - b) Clearly articulated and realistic desired outcomes from the planning grant that increase community readiness for development.

- c) The level of community readiness and local commitment to the predicted development outcomes; considerations include:
 - i. Track record of successful implementation of community development projects and/or past CPDG plan implementation
 - ii. Development sites of adequate scale to generate critical mass of activity;
 - iii. Existing and proposed transportation infrastructure to support future development;
 - iv. Existing urban form provides strong redevelopment opportunities;
 - v. Sound relationship to adjacent residential and employment areas;
 - vi. Compelling vision and long-term prospects;
 - d) Describe the roles and responsibilities of the applicant and county or city, and relevant service providers for accomplishing the goals of the proposed project.
- 2) Regionally Significant: Clearly identify how the proposed planning grant will benefit the region in achieving established regional development goals and outcomes, including sustainability practices, 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 their everyday needs are easily accessible;
 - 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 climate change;
 - 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) Centers, Corridors, Station Communities and Main Streets: Areas identified on the 2040 Growth Concept Map in the Metro Regional Framework Plan as Centers, Corridors, Station Communities and Main Streets have been recognized as the principal centers of urban life in the region. These areas are at different stages of development and each has its own character. For planning projects proposed for or within these areas, describe how the planning actions identified in Title 6 of the Metro Urban Growth Management Functional Plan have been previously addressed or will be addressed as part of the proposed project. This includes establishing an area boundary, performing an assessment of the areas, and adopting a plan of actions and investments.
- 4) Other locations: Discuss how the proposed planning grant facilitates development or redevelopment of the following areas, as applicable:
- a) Employment and industrial areas;
 - b) Areas recently brought into the UGB where concept planning has been completed but where additional planning and implementation work is needed in order to make these areas development ready; and/or

- c) Areas with concentrations of underserved or underrepresented groups.
- 5) Best Practices Model: Consideration will also be given to applications that can be easily replicated in other locations and demonstrate best practices. Discuss how lessons learned from the planning project will be shared with other communities in the region.
- 6) Leverage: 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.
- 7) Matching Fund/Potential: A ten percent (10%) local match is required either as a direct financial contribution or as an in-kind contribution. Discuss whether any portion of the total project cost will be incurred by the applicant and/or its partners. Explain specific portions of the work scope the match money would fund.
- 8) Growth Absorption: Discuss how this project will create opportunities to accommodate expected population and employment growth consistent with local planning.
- 9) Public Involvement: Discuss whether and how the public, including neighbors of the project, businesses, property owners, key stakeholders, and disadvantaged communities including low income and minority populations, will be involved in the project and how their input will be used to strengthen the project outcomes and increase the likelihood of implementation.
- 10) Governing Body: Describe the role of the governing body in relation to:
 - a) The type of action to be taken to implement the final product; and
 - b) Where applicable, how public voting requirements for annexation and transit improvements will be addressed so that the outcome of proposed planning projects can be realized.
- 11) Capacity of applicant: Describe the skill set needed and the qualifications of the staff and/or consulting teams proposed to carry out the planning project.

B) Grant Request Evaluation Criteria for proposed projects within areas added to the UGB since 2009 and Urban Reserves.

Grant requests for projects in areas added to the UGB since 2009 and Urban Reserves shall specifically address how the proposed grant achieves, does not achieve, or is not relevant to the following criteria, drawn from the Urban Growth Management Functional Plan (UGMFP). While the UGMFP's Title 11 (Planning for New Urban Areas) calls for completion of a concept plan prior to Council decision to add the area to the UGB, award of a grant for concept planning in urban reserves by the Metro Council should not be interpreted as a commitment by Metro to add the area to the UGB in the next cycle. Applications should note whether the planning project includes an Urban Reserve area. The Screening Committee shall emphasize using available funds to spur development. Applicants should refer to the Application Handbook for information and guidance regarding how to address specific evaluation criteria set forth below.

- 1) Address Title 11 requirements for a concept plan or comprehensive plan. Describe how the proposed planning grant will address the requirements for either a concept plan or comprehensive plan or both as described in Title 11.

- a) If not proposing to complete a full plan, describe how the portion proposed will result in an action that secures financial and governance commitment that facilitates the next steps in the planning process.
 - b) If not proposing a planning grant for the full Urban Reserve area, describe how the proposal will still allow for coordinated development of the entire area as a complete community and address any applicable principles for concept planning of urban reserves contained in the urban and rural reserve intergovernmental agreement between Metro and the county.
- 2) Regionally Significant: Unless addressed in criteria #1, describe how the proposed planning grant will benefit the region in achieving established regional development goals and outcomes, including sustainability practices, as expressed in the 2040 Growth Concept and the Six Desired Outcomes adopted by the Metro Council to guide future planning in the region, which include:
- a) People live and work in vibrant communities where their everyday needs are easily accessible;
 - 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 climate change;
 - e) Current and future generations enjoy clean air, clean water and healthy ecosystems; and
 - f) The benefits and burdens of growth and change are distributed equitably.
- 3) Address how the proposed project will meet local needs and contribute solutions to regional needs. Describe whether and how the proposal will meet a variety of community needs, including land uses such as mixed use development and large lot industrial sites that are anticipated to continue to be regional needs.
- 4) Demonstrate jurisdictional and service provider commitments necessary for a successful planning and adoption process. Applications should reflect commitment by county, city and relevant service providers to participate in the planning effort and describe how governance issues will be resolved through or prior to the planning process. Describe the roles and responsibilities of the county, city and relevant service providers for accomplishing the commitments.
- 5) Address readiness of land for development in areas added to the UGB since 2009 and Urban Reserves. For applications in areas added to the UGB since 2009, demonstrate that market conditions would be ready to support development and efficient use of land or define the steps that the project would undertake to influence market conditions.
- 6) Best Practices Model: Consideration will also be given to applications that can be easily replicated in other locations and demonstrate best practices. Discuss how lessons learned from the planning project will be shared with other communities in the region.

- 7) Leverage: 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.
- 8) Matching Fund/Potential: A ten percent (10%) local match is required either as a direct financial contribution or in-kind contribution. Discuss whether any portion of the total project cost will be incurred by the applicant and/or its partners. Explain specific portions of the work scope the match money would fund.
- 9) Growth Absorption: Explain how this project will create opportunities to accommodate expected population and employment growth consistent with local planning.
- 10) Public Involvement: Discuss whether and how the public, including neighbors to the project, businesses, property owners, key stakeholders, and disadvantaged communities including low income and minority populations, will be involved in the project and how their input will be used to strengthen the project outcomes and increase the likelihood of implementation.
- 11) Governing Body: Describe the role of the governing body in relation to:
 - a) The type of action to be taken to implement the final product; and
 - b) Where applicable, how public voting requirements for annexation and transit improvements will be addressed so that the outcome of proposed planning projects can be realized.
- 12) Capacity of applicant: Describe the skill set needed and the qualifications of the staff and/or consulting teams proposed to carry out the planning project.

C) 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 milestones proposed in the Grant Request. The Grant Request shall include also outcome measures specific to the project and source of data and information for Metro’s use for evaluation of the progress of the CPDG program. Milestones and grant payment allocations should follow the following general guidelines:

- 1) Execution of the CPDG 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 CPDG;
- 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 CPDG award, addressing compliance with the Urban Growth Management Functional Plan, the applicable conditions of the CPDG award, and applicable state laws and regulations; and
- 4) Grant Applicant’s action on the 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 CPDG award, consistent with the Functional Plan, the applicable conditions of the CPDG award, and applicable state law. The governing body of the applicant shall authorize the action on the final products.

- 5) Grant Applicant's proposed outcome measures specific for the project and source of data and information for Metro's use for evaluation of the progress of this grant program.
- 6) Grant Applicant's proposed method of sharing lessons learned during the planning project for the purpose of benefiting other jurisdictions in the region.

3. Step Three: Grant Intergovernmental Agreement ("IGA"). Upon the award of a grant, the Metro COO shall issue a Grant Letter for the grant amount determined by the Metro Council. Metro and the Grant Applicant shall enter into a Grant Intergovernmental Agreement ("IGA") The governing body of the Grant applicant jurisdiction shall authorize the approval of the IGA. The IGA shall set forth an agreed-upon scope of work and budget, completion dates of expected milestones and deliverables, and Grant payment dates and payment amount for each milestone. The scope of work in the grant application and guidelines above as modified by any condition in Metro Council grant award shall be the basis for Metro and grantee to negotiate the IGA.

- a. **Deadline for Signing IGA:** If the IGA has not been signed by Metro and grantee within six months of grant award, the COO shall exercise the authority to cancel the grant award.
- b. **Grant Payments:** The grant payment amount and marching fund shall be stated in the IGA. Grant payments shall be made upon the completion of those milestones set forth in the IGA, as determined by Metro in accordance with the requirements of the Metro Code and the IGA. In general, a portion of the Grant funds shall be distributed upon execution of a IGA with Metro, with the remainder of the Grant being paid out as progress payments upon completion of the milestones in the IGA. Grantees shall submit progress reports to Metro documenting the milestone and the completed deliverables for grant payment.
- c. **Eligible Expenses.**
 1. The following expenses shall be considered Eligible Expenses for CPDG consideration for eligible direct costs, which will have priority for funding over indirect costs:
 - a) Materials directly related to project;
 - b) Consultants' work on project;
 - c) Grant Applicant staff support directly related to project; and
 - d) Overhead directly attributable to project;
 2. Grant requests to reimburse local governments for planning work already completed shall not be considered.
 3. 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.

- d) Metro staff liaison: Grantees shall work closely with the Metro staff liaison, and include them in the appropriate advisory committee for the project.
 - e) Completion of grant project: The COO shall retain the right to terminate a CPDG award if the milestones set forth in the IGA are not met within the timeframes set forth in the IGA.
4. **Application Handbook:** Before soliciting applications for the planning and development grants, Metro shall publish a handbook with details on how to submit applications, prepare a project budget linked to expected outcomes and milestones, and deadlines for applicants to submit letters of intent and full applications.

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 15-4595, FOR THE PURPOSE OF APPROVING AMENDED CONSTRUCTION EXCISE TAX ADMINISTRATIVE RULES PROPOSED BY THE METRO CHIEF OPERATING OFFICER FOR THE COMMUNITY PLANNING AND DEVELOPMENT GRANT PROGRAM

Date: March 9, 2015

Prepared by: Gerry Uba
503-797-1737
gerry.uba@oregonmetro.gov

BACKGROUND

In June 2014, Metro Council adopted Ordinance No. 14-1328 which extended the Construction Excise Tax (CET) through December 2020 and directed the Chief Operating Officer to seek direction from the Metro Council prior to revising the Administrative Rules for implementation of the CET and the Community Planning and Development Grants (CPDG). The COO and Stakeholder Advisory Group for CET extension and CPDG program evaluation had recommended revision of the Administrative Rules to ensure that the purpose of the CET is fully achieved.

Metro Council took two additional actions in June (Ordinance No. 14-1328). It increased Metro's administrative reimbursement from 2.5 percent to 5 percent of the revenues collected to help cover part of Metro's expenses. It also directed the COO to return to the Metro Council for review and adoption of the revised Administrative Rules prior to promulgating them.

On October 7, 2014, The COO sought directions from the Metro Council on revisions to the Administrative Rules. The COO explained how the revision will be conducted:

- A. Gather stakeholder input on the revision through Metro Technical Advisory Committee (MTAC) instead of creating another stakeholder advisory group for this project (see Attachments A and B for MTAC membership in 2014 and 2015)
- B. Review and discuss amendments to the Administrative Rules recommended by the Stakeholder Advisory Group
 - 1) Allocation of projected revenue between projects within existing UGB and projects within urban reserves and new urban areas
 - 2) Core criteria recommended for refinement:
 - Likelihood of project implementation
 - Capacity of applicant
 - Social equity

- Growth absorption
 - Best practices
- C. Use MTAC for revisions to the Administrative Rules, focusing on:
- 1) Future grant cycles
 - 2) Types of planning activities that should be eligible
 - 3) Refinement of other criteria for evaluating project proposals which were not discussed by the previous stakeholder group
 - 4) Weighting the criteria
- D. MTAC discussion will be informed with the result of ECONorthwest “Logic Model” for the CPDG program, which will clarify types of planning activities Metro should be encouraging, the desired outcomes and how the program should be evaluated in the future.

Metro Council direction on October 7, 2014:

The Metro Council directed that the COO and MTAC should propose revisions and forward them to MPAC for a recommendation to the Chief Operating Officer and Metro Council. The Metro Council also directed MTAC to consider:

- Regional policy objectives in proposing revisions to the criteria
- Support for maximum breath of planning and development opportunities
- Capacity of local staff to take advantage of the number of future grant cycles
- Likelihood of grant project implementation
- How social equity concerns could be fully addressed
- Effective ways of sharing best practices
- How to encourage small jurisdictions to partner with larger jurisdictions
- How to be more direct about Metro’s expectation of grant recipients.

Metro Council direction of January 20, 2015:

The Metro Council directed the COO to seek MTAC input on one additional item: the relationship between the CPDG program and Title 6 of Metro’s Urban Growth Management Functional Plan (Functional Plan), and forward its recommendations to Metro Policy Advisory Committee (MPAC) for a recommendation to the Metro Council. The Metro Council seeks input on whether some or all Community Planning and Development Grants should be considered “regional investments” for the purposes of Title 6 implementation.

MPAC’s recommendation to the Metro Council

On February 11, 2015 and February 25, 2015, staff presented MTAC’s recommendations and comments on revisions to the Administrative Rules to the MPAC. The recommendations are described below in the “MTAC’s recommendations to the MPAC and COO” section. At the February 25, 2015 meeting, MPAC voted unanimously to recommend to the Metro Council to adopt the revisions in the Administrative Rules for implementation of the CET and CPDG program. See the strikethrough and clean versions of the Administrative Rules in Attachments C and D.

COO's recommendations to the Metro Council

The following recommendations of the COO are based on the recommendations of the Stakeholder Advisory Group and MTAC.

1. Clarification of the linkage between the CET and CPDG in the rules -- the CET is the source of fund for the CPDG
2. Three new grant cycles between 2015 and 2020, depending on CFO's revenue projection
3. Endorsement of MTAC recommendations to the MPAC
4. Endorsement of MPAC recommendations to the Metro Council

MTAC's recommendations to the MPAC and COO

In the fall of 2014, the MTAC meet four times in fall 2014 (October 15th, November 5th, November 19th, and December 3rd) to review the Administrative Rules, including some proposed revisions. MTAC focused its discussion on the revenue distribution section of the Administrative Rules. Their discussions were partly informed by a "Logic Model" for the CPDG program which Metro contracted with ECONorthwest to produce.

On February 11, 2015, the MTAC discussed the additional directives from the Metro Council to provide input on the relationship between the CPDG programs and Title 6 of the Functional Plan. MTAC recognized the need to implement Title 6 and use the CPDG to encourage planning in Title 6 areas (Center, Corridors, Station Communities and Main Streets). However, there was a consensus that the requirements in Title 6 should not be linked to applications for the CPDG. MTAC pointed to the Administrative Rules and Application Handbook for showing how applications for projects proposed in Title 6 areas will be prioritized with more points for meeting specific Title 6 planning objectives, while maintaining the ability to fund strong projects also in industrial and employment areas. Additional MTAC comment is that Metro should monitor trend in number of applications for projects proposed in Title 6 areas to inform how to balance funding projects between Title 6 related and non-Title 6 areas in future grant cycles.

Below is summary of the revisions to the Administrative Rules recommended by MTAC.

1. Purpose of the grant program for projects proposed inside the UGB is to identify and reduce barriers to developing complete communities.
2. Changes to criteria for proposed projects inside the UGB:
 - a) Expected development outcome:
 - i. Clearer articulation of program goals – seeking projects that increase community readiness for development and reduce the barriers to creating complete communities
 - ii. Describe applicant's track record of successful implementation of community development projects and previous CPDG projects
 - b) Regionally Significant criteria (six desired outcomes are sub-criteria)
 - i. People have safe and reliable transportation choices that enhance their quality of life criteria: the Application Handbook should explain how proposed project will identify and incorporate access by all transportation modes

- ii. Climate change sub-criteria: the Application Handbook should be used to explain how proposed project will identify and apply approaches appropriate to local and regional conditions in reducing greenhouse emission
 - iii. Benefits and burdens of growth and change are distributed equitably sub-criteria: The Application Handbook should explain how applicants can use information in the Regional Equity Atlas to identify and address the need of underserved and underrepresented groups.
 - c) Centers, Corridors, Station Communities and Main Streets criteria: Add new criteria for the purpose of encouraging projects in these areas defined in Title 6 of Metro’s Urban Growth Management Functional Plan as the principal centers of urban life
 - d) Other locations criteria: Add a sub-criteria on whether and how the proposed planning grant facilitates development or redevelopment of “areas with concentration of underserved or underrepresented groups for applications that articulate how planning activities for development and redevelopment will address the needs of these groups”
 - e) Best practices model: Applications should explain how lessons learned from the planning project will be shared with other communities
 - f) Matching fund: Add 10% local match requirement, either direct financial or in-kind.
 - g) Growth absorption criteria: Replaced the “equitable distribution of funds criteria.” The intent of the criteria is for applications to explain how proposed project will create opportunities to accommodate expected population and employment growth.
 - h) Public involvement: The Application Handbook should provide additional information on how to address the criteria.
 - i) Governing body criteria: This new criteria is for applicants to clarify the type of action/s the governing body will take on the final product
 - j) Capacity of applicant criteria: The new criteria is for the purpose of describing the skill set needed to carry out the planning project and how that will match the proposed project team’s skill set
3. Criteria for proposed projects within new urban areas and Urban Reserve Areas
- a) Regional Significant (six desired outcomes): Replicate the criteria for proposed projects within the UGB.
(note: b-g below mirror those described in section 1 above)
 - b) Best practices model: Applications should explain how lessons learned from the planning project will be shared with other communities
 - c) Matching fund: Add 10% local match requirement, either direct financial or in-kind.
 - d) Growth absorption criteria: Replaced the “equitable distribution of funds criteria.” The intent of the criteria is for applications to explain how proposed project will create opportunities to accommodate expected population and employment growth.
 - e) Public involvement: Application Handbook should provide additional information on how to address the criteria.

- f) Governing body criteria: This new criteria is for applicants to clarify the type of action/s the governing body will take on the final product
 - g) Capacity of applicant criteria: The new criteria is for the purpose of describing the skill set needed to carry out the planning project and how that will match the proposed project team's skill set
4. Other issues and sections of the Administrative Rules
- a) Screening Committee membership: Allow the Metro COO to appoint 6-9 members who together represent the skills sets listed.
 - b) Deadline for signing IGA: Incorporate a deadline for projects to start into the grant intergovernmental agreement section.
 - c) Matching Fund: Require applicants to submit information about the allocation of matching fund and/or staff resources for the project. Require also stating the matching fund in the IGA.
 - d) Outcome measures: Grant requests should identify outcome measures specific to each project to allow tracking and evaluation in the future.

ANALYSIS/INFORMATION

1. Known Opposition

There is no known opposition to the proposed legislation. The process of revising the Administrative Rules involved two stakeholder advisory groups which reviewed the CPDG program and the administrative Rules and recommended improvement in the CPDG program and the revisions to the attached Administrative Rules.

2. Legal Antecedents

Upon establishment of the CET in 2006 by Metro Council, Metro Code 7.04(Administrative Rules) was established for implementation of the tax. In 2009, the Metro Council extended the CET (ordinance 09-1220) and directed the COO to promulgate Administrative Rules to govern the extension grant program with input from stakeholders. These Administrative Rules build upon the 2006 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.

In June 2014, the Metro Council extended the CET to December 2020. As stated earlier, the Metro Council directed the COO to revise the Administrative Rules, and to return to the Metro Council for adoption of the Administrative Rules prior to promulgating them.

3. Anticipated Effects

The revision of the Administrative Rules will improve the overall quality of grant program. The revisions will also encourage grant applicants to propose strong projects which demonstrate understanding of the development market and stated desired outcomes. Outcome measures specific to projects proposed by grant applicants and performance measures for periodic evaluation of the grant program will established.

4. Budget Impacts

As a result of the Metro Council action during extension of the CET and adoption of the revised Administrative Rules, Metro's administrative reimbursement will increase from 2.5 percent of the revenues collected (about \$50,000 per year) to 5 percent (about \$100,000 per year). The increase will help cover those Metro's expenses but still short of direct costs for the grant program (which is over \$150,000 per year).

5. Attachments

- Attachment A: 2014 MTAC Membership
- Attachment B: 2015 MTAC Membership
- Attachment C: Final draft of CET-CPDG Administrative Rules – strikethrough version
- Attachment D: Final draft of CET-CPDG Administrative Rules – clean version

RECOMMENDED ACTION

The Chief Operating Officer recommends adoption of the revised Administrative Rules for Construction Excise tax and Community Planning and Development Grants program.

ATTACHMENT A

MTAC: 2014 Membership

	Position	Member	Alternate
	Citizens:		
1.	Clackamas County Citizen	Jerry Andersen	Susan Nielsen
2.	Multnomah County Citizen	Kay Durtschi	Carol Chesarek
3.	Washington County Citizen	Bruce Bartlett	Dresden Skees-Gregory
	Cities		
4.	City of Portland	Susan Anderson	Joe Zehnder Tom Armstrong
5.	Largest City in Clackamas County: Lake Oswego	Scot Siegel	Debra Andreades
6.	Largest City in Multnomah County: Gresham	Stacy Humphrey	Ann Pytynia
7.	Largest City in Washington County: Hillsboro	Colin Cooper	Jeanine Rustad
8.	2 nd Largest City in Clackamas County: Oregon City	Tony Konkol	Pete Walter
9.	2 nd Largest City in Washington County: Beaverton	Todd Juhasz	Steve Sparks
10.	Clackamas County: Other Cities	Denny Egner Milwaukie	Michael Walter Happy Valley
11.	Multnomah County: Other Cities	Bill Peterson Wood Village	Erika Fitzgerald Fairview
12.	Washington County: Other Cities	Jon Holan, Forest Grove	Julia Hajduk, Sherwood Chris Neamtzu, Wilsonville Aquilla Hurd-Ravich, Tualatin
13.	City of Vancouver	Chad Eiken	Vacant
	Counties		
14.	Clackamas County	Dan Chandler	Jennifer Hughes
15.	Multnomah County	Adam Barber	Karen Schilling
16.	Washington County	Chris Deffebach	Theresa Cherniak
17.	Clark County	Matt Hermen	Oliver Orjiako
	State Agencies		
18.	ODOT	Kirsten Pennington	Lidwien Rahman Lainie Smith
19.	DLCD	Jennifer Donnelly	Anne Debbaut
	Service Providers		
20.	Service Providers: Water and Sewer	Kevin Hanway, Hillsboro Water Dept.	Vacant

21.	Service Providers: Parks	Aisha Willits, THPRD	Vacant
22.	Service Providers: School Districts	Ron Stewart, North Clackamas School District	Vacant
23.	Service Providers: Private Utilities	Annette Mattson, PGE	Shanna Brownstein, NW Natural
24.	Service Providers: Port of Portland	Susie Lahsene	Tom Bouillion
25.	Service Providers: TriMet	Eric Hesse	Alan Lehto Steve Kautz
	Private Economic Development Association		
26.	Private Economic Development Organizations	Darci Rudzinski, EMEA, CCBA, WEA & CCBA	Vacant
	Public Economic Development Association		
27.	Public Economic Development Organizations	Eric Underwood, Oregon City	Jamie Johnk, Clackamas County
	Other Organizations		
28.	Land Use	Mary Kyle McCurdy, 1000 Friends of Oregon	Vacant
29.	Environmental	Vacant	Vacant
30.	Housing Affordability	Ramsay Weit, Community Housing Fund	Vacant
31.	Residential	Justin Wood, HBA	Dave Nielsen, HBA
32.	Redevelopment/Urban Design	Joseph Readdy, Architect	Vacant
33.	Commercial/Industrial	Vacant	Vacant
34.	Green Infrastructure, Design & Sustainability	Mike O'Brien AAI Engineering	Kurt Lango Lango Hansen
35.	Public Health & Urban Form	Paul Lewis, Clackamas County	Multnomah County - Vacant Jennifer Vines, Washington County
36.	Non-voting Chair	John Williams Planning & Development, Metro	Various

ATTACHMENT B

MTAC: 2015 Membership

	Position	Member	Alternate(s)
1.	Clackamas County Citizen	Jerry Andersen	Susan Nielsen
2.	Multnomah County Citizen	Kay Durtschi	Carol Chesarek
3.	Washington County Citizen	Bruce Bartlett	Dresden Skees-Gregory
4.	Largest City in the Region: Portland	Susan Anderson	Joe Zehnder Tom Armstrong
5.	Largest City in Clackamas County: Lake Oswego	Scot Siegel	Debra Andreades
6.	Largest City in Multnomah County: Gresham	Stacy Humphrey	Brian Martin
7.	Largest City in Washington County: Hillsboro	Colin Cooper	Jeannine Rustad
8.	2 nd Largest City in Clackamas County: Oregon City	Tony Konkol	Pete Walter
9.	2 nd Largest City in Washington County: Beaverton	Todd Juhasz	Steve Sparks
10.	Clackamas County: Other Cities	Denny Egner, Milwaukie	Michael Walter, Happy Valley
11.	Multnomah County: Other Cities	Bill Peterson, Wood Village	Erika Fitzgerald, Fairview
12.	Washington County: Other Cities	Jon Holan, Forest Grove	Julia Hajduk, Sherwood Aquilla Hurd-Ravich, Tualatin Michael Cerbone, Cornelius
13.	City of Vancouver, WA	Chad Eiken	Sandra Towne
14.	Clackamas County	Dan Chandler	Martha Fritzie
15.	Multnomah County	Adam Barber	Karen Schilling
16.	Washington County	Chris Deffebach	Theresa Cherniak Erin Wardell
17.	Clark County	Matt Hermen	Oliver Orijako
18.	ODOT	Kirsten Pennington	Lidwien Rahman Lainie Smith
19.	DLCD	Jennifer Donnelly	Anne Debbaut
20.	Service Providers: Water & Sewer	Kevin Hanway, Hillsboro Water Dept.	Vacant

21.	Service Providers: Parks	Aisha Willitts, THPRD	Vacant
22.	Service Providers: School Districts	Barbara Jorgensen, MESD	Tony Magliano, PPS
23.	Service Providers: Private Utilities	Annette Mattson, PGE	Shanna Brownstein, NW Natural
24.	Service Providers: Port of Portland	Susie Lahsene	Tom Bouillion
25.	Service Providers: TriMet	Eric Hesse	Alan Lehto Steve Kautz
26.	Private Economic Development Associations	Darci Rudzinski – EMEA, CCBA, WEA, & CCBA	Vacant
27.	Public Economic Development Associations	Eric Underwood, Oregon City	Jamie Johnk, Clackamas County
28.	Land Use Advocacy Organization	Mary Kyle McCurdy, 1000 Friends	Sam Diaz, 1000 Friends
29.	Environmental Advocacy Organization	Vacant	Vacant
30.	Housing Affordability Organization	Ramsay Weit, Community Housing Fund	Vacant
31.	Residential Development	Justin Wood, HBA	Jon Kloor, HBA Dave Nielsen, HBA
32.	Redevelopment/Urban Design	Joseph Readdy	Vacant
33.	Commercial/Industrial	Vacant	Vacant
34.	Green Infrastructure, Design & Sustainability	Mike O'Brien, AAI Engineering	Vacant
35.	Public Health & Urban Form	Jae P. Douglas, Multnomah County	Elizabeth Clapp, Multnomah County
36.	Non-Voting Chair, Metro	John Williams, Planning & Development	

1/7/15; 1/14/15;

ATTACHMENT C

ADMINISTRATIVE RULES: METRO CODE CHAPTER 7.04 [Revised ~~December~~ March 2012 2015]

Effective July 1, 2006, and extended through ~~September 30, 2014~~ December 31, 2020, Metro has established as Metro Code Chapter 7.04 a Construction Excise Tax (“CET”) to fund Community Planning and Development Grants (“CPDG”). 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, after consultation with Metro Council.

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%

$$(0.0012 \times \text{Value of New Construction})$$

- 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 half~~ five percent (~~2.5%~~ 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~~ five percent (~~2.5%~~ 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~~ December 31, 2020.
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~~ December 31, 2020, 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 30th 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~~ five percent (~~2.5%~~ 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~~ 2014 extension of the CET shall be allocated in ~~two~~ three new application assessment cycles (Cycle ~~2-4~~, ~~and~~ Cycle ~~3-5~~ and Cycle 6).

1. The Cycle 1 fund distribution took place in March 2006, which allocated up to \$6.3 million in grants. Grant requests in this cycle were made for planning only in new areas that were brought into the Urban Growth Boundary (UGB) between 2002 and 2005.

2. The Cycle 2 grant allocation through the Community Planning and Development Grant program (CPDG) took place in ~~FY June 2010~~ 2009, which allocated up to \$3.57 million in CET Grants revenue. Grant requests in this cycle ~~may be~~ were made for planning in all areas that are in the Urban Growth Boundary (UGB) as of December 2009.

3. The Cycle 3 grant allocation ~~shall take~~ took place in ~~FY 2012-~~ August 2013, which allocated \$4.5 million in grants. Grant requests in this cycle were made and ~~shall allocate the remainder of the projected CET collection for this cycle.~~ Grant Requests in this cycle ~~may be~~ for planning in all areas that are in the UGB as of December 2009, plus areas added to the UGB since 2009 and Urban Reserves. This cycle earmarked fifty percent (50%) of projected CET revenues for planning in areas added to the UGB since 2009 and Urban Reserves, and required that if the amount of qualified Grant Requests for areas added to the UGB since 2009 and Urban Reserves does not equal or exceed the earmarked amounts, the remainder of funds may be allocated to Grant Requests for planning in other areas.

~~3. The Cycle 3 grant allocation shall earmark fifty percent (50%) of projected CET revenues for planning in areas added to the UGB since 2009 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 Grant Requests for planning in other areas.~~

4. The Cycle 4 grant allocation shall take place in 2015-2016 for planning in all areas that are in the UGB and Urban Reserves. This grant allocation shall earmark seventy percent to seventy five percent (70% to 75%) of projected revenue for planning within the existing UGB, and earmark twenty five percent to thirty percent (25% to 30%) of projected revenue for concept planning and comprehensive planning for urban reserves and new urban areas, and require that if the amount of qualified Grant Requests for areas added to the UGB since 2009 and Urban Reserves does not equal or exceed the earmarked amounts, the remainder of funds may be allocated to Grant Requests for planning in other areas.

5. The Cycle 5 grant allocation shall take place in 2017-2018 for planning in all areas that are in the UGB and Urban Reserves. This grant allocation shall earmark seventy percent to seventy five percent (70% to 75%) of projected revenue for planning within the existing UGB, and earmark twenty five percent to thirty percent (25% to 30%) of projected revenue for concept planning and comprehensive planning for urban reserves and new urban areas, and require that if the amount of qualified Grant Requests for areas added to the UGB since 2009 and Urban Reserves does not equal or exceed the earmarked amounts, the remainder of funds may be allocated to Grant Requests for planning in other areas.

6. The Cycle 6 grant allocation shall take place in 2019-2020 for planning in all areas that are in the UGB and Urban Reserves. This grant allocation shall earmark seventy percent to seventy five percent (70% to 75%) of projected revenue for planning within the existing UGB, and earmark twenty five percent to thirty percent (25% to 30%) of projected revenue for concept planning and comprehensive planning for urban reserves and new urban areas, and require that if the amount of qualified Grant Requests for areas added to the UGB since 2009 and Urban Reserves does not equal or exceed the earmarked amounts, the remainder of funds may be allocated to Grant Requests for planning in other areas.

7. 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, or if required by Metro's spending cap limitations.

8. Metro may conduct additional allocation cycles if the Metro Chief Operating Officer finds that CET receipts are projected to exceed the grant amounts awarded in Cycle 4 and Cycle 5 and Cycle 6.

B. CET CPDG Grant Screening Committee ("Committee").

1. Role. A ~~CET Grant~~ CPDG 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 her/his own grant recommendations, along with the recommendations of the ~~CET Grant~~ CPDG Screening Committee, to the Metro Council. The Metro Council shall make final grant decisions in a public hearing. A new ~~Grant~~ CPDG Screening Committee shall be established for ~~Cycle 3~~ Cycle 4, Cycle 5 and Cycle 6 grants, but may include members from the ~~Cycle 2~~ previous Committees.
2. CET-CPDG Grant Screening Committee Members. ~~The COO shall appoint six to nine members to the Committee, including the Committee Chair will be selected by the Metro COO. Skill sets to be represented will be composed of the following expertise: 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 u~~Urban planning;
- ~~At least one member with expertise in r~~Real estate and finance;
- ~~One member with expertise in i~~Infrastructure finance relating to development or redevelopment;
- ~~One member with expertise in l~~Local government;
- ~~One member with expertise in u~~Urban renewal and redevelopment;
- ~~One member with expertise in b~~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 e~~Environmental sustainability relating to development or redevelopment.
- Social equity relating to community development and redevelopment planning

C. Grant CPDGD Screening Committee Review of Grant Requests.

1. Metro staff shall forward the letters of intent and Grant Requests to the members of the ~~Grant~~ Screening Committee, and will provide staff assistance to the Committee.
2. The ~~CET Grant~~ Screening Committee shall then review the Grant Requests and evaluate them based on the ~~CET Grant~~ CPDGD Evaluation Criteria set forth below. The Screening Committee shall use the criteria as guidelines for evaluating applications. 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 her/his own grant recommendations, based on the ~~CET Grant~~ CPDGD Requests Evaluation Criteria set forth ~~below~~ 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 her/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~~ CPDGD ~~grant~~ funds, each Grant Applicant that anticipates requesting ~~CET grant~~ CPDGD funds in Cycle ~~24~~, Cycle 5 and Cycle ~~36~~ shall submit a ~~written and~~ electronic Letter of Intent to the Metro Chief Operating Officer.
 - a. Grant Applicant. ~~CET Grant~~ CPDGD 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~~ CPDGD only in partnership with a city or county within the Metro boundary.

~~b. Letter of Intent Submission Date. For Grant Requests in Cycle 2, 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 Cycle 3, Letters of Intent shall be submitted to Metro by within three (3) months of the update to this administrative rule.~~

b. 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~~ CPDG Request Evaluation Criteria, and proposed milestones for grant payments. Metro staff and the grant applications Screening Committee 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.~~ Metro staff will send comments to the local governments.

2. **Step Two: Grant Request.** After submitting the Letter of Intent, and after working with Metro staff and ~~Grant~~ Screening Committee if necessary, to revise the proposal, Grant Applicants ~~seeking distribution of CET expected revenue~~ shall submit a ~~written and an~~ electronic Grant Request to the Metro Chief Operating Officer. The grant request shall include support of the governing body and matching fund commitment with allocation of fund and/or staff resources for the proposed project.

A. Grant Request Evaluation Criteria for Proposed Projects within the current UGB.

For proposed projects within the UGB, the Grant Request shall specifically address how the proposed grant achieves, does not achieve, or is not relevant to, the following criteria ("CPDG ~~CET~~ Grant Evaluation Criteria"), ~~drawn from~~ consistent with the intent of the Urban Growth Management Functional Plan. Applicants should refer to the Application Handbook for information and guidance regarding how to address specific evaluation criteria set forth below.

- 1) Expected Development Outcomes: Explain what planning activities are ~~how the proposed to be undertaken with the planning and development grant, and how those will increase ability to achieve on the ground development and redevelopment outcomes~~ activities will identify and reduce the barriers to developing complete communities. Address:
 - a) Identification of opportunity site/s within the boundary of the proposed project area with catalyst potential that focus on jobs growth and/or housing. Explain the characteristics of the site/s and how the proposed project will lead to a catalytic investment strategy with private and public sector support.
 - b) Clearly articulated and realistic desired outcomes from the planning grant that increase community readiness for development.

~~e) The expected probability that due to this planning and development grant, development permits will be issued within two years;~~

- c) The level of community readiness and local commitment to the predicted development outcomes; considerations include:

1. Track record of successful implementation of community development projects and/or past CPDG plan implementation
2. Development sites of adequate scale to generate critical mass of activity;
3. Existing and proposed transportation infrastructure to support future development;
4. Existing urban form provides strong redevelopment opportunities;
5. Sound relationship to adjacent residential and employment areas;
6. Compelling vision and long-term prospects;

d) Describe the roles and responsibilities of the applicant and county or city, and relevant service providers for accomplishing the goals of the proposed project.

2) Regionally Significant: Clearly identify how the proposed planning grant will benefit the region in achieving established regional development goals and outcomes, including sustainability practices, 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 their everyday needs are easily accessible;
- 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 climate change;
- 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) Centers, Corridors, Station Communities and Main Streets: Areas identified on the 2040 Growth Concept Map in the Metro Regional Framework Plan as Centers, Corridors, Station Communities and Main Streets have been recognized as the principal centers of urban life in the region. These areas are at different stages of development and each has its own character. For planning projects proposed for or within these areas, describe how the planning actions identified in Title 6 of the Metro Urban Growth Management Functional Plan have been previously addressed or will be addressed as part of the proposed project. This includes establishing an area boundary, performing an assessment of the areas, and adopting a plan of actions and investments.

4) ~~Other~~ Locations: Discuss how the proposed planning grant facilitates development or redevelopment of the following areas, as applicable:

a. ~~Centers;~~

b. ~~Corridors/Main Streets;~~

~~e. Station centers; and/or~~

d. Employment and industrial areas;

e. Areas recently brought into the UGB where concept planning has been completed but where additional planning and implementation work is needed in order to make these areas development ready; and/or

f. Areas with concentrations of underserved or underrepresented groups.

5) Best Practices Model: Consideration will also be given to applications that can be easily replicated in other locations and demonstrate best practices. Discuss how lessons learned from the planning project will be shared with other communities in the region.

6) Leverage: 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.

7) Matching Fund/Potential: A ten percent (10%) local match is required either as a direct financial contribution or as an in-kind contribution. Discuss whether any portion of the total project cost will be incurred by the applicant and/or its partners. Explain specific portions of the work scope the match money would fund.

~~8) Growth Absorption: Discuss how this project will create opportunities to accommodate expected population and employment growth consistent with local planning. 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.~~

9) Public Involvement: Discuss whether and how the public, including neighbors of the project, businesses, property owners, key stakeholders, and disadvantaged communities including low income and minority populations, will be involved ~~formed~~ ~~in the progress of the project~~ and how their input will be used to strengthen the project outcomes and increase the likelihood of implementation.

10) Governing Body: Describe the role of the governing body in relation to:

a. The type of action to be taken to implement the final product; and

b. Where applicable, how public voting requirements for annexation and transit improvements will be addressed so that the outcome of proposed planning projects can be realized.

11) Capacity of applicant: Describe the skill set needed and the qualifications of the staff and/or consulting teams proposed to carry out the planning project.

B. Grant Request Evaluation Criteria for Proposed Projects within areas added to the UGB since 2009 and Urban Reserves.

Grant requests for ~~proposed~~ projects in ~~both~~ areas added to the UGB since 2009 and Urban Reserves shall specifically address how the proposed grant achieves, does not achieve, or is not relevant to the following criteria, drawn from the Urban Growth Management Functional Plan (UGMFP). While the UGMFP's Title 11 (Planning for New Urban Areas) calls for completion of a concept plan prior to Council decision to add the area to the UGB, award of a grant for concept planning in urban reserves by the Metro Council should not be interpreted as a commitment by Metro to add the area to the UGB in the next cycle. Applications should note whether the planning project includes an Urban Reserve area. The Screening Committee shall emphasize using available funds to spur development. Applicants should refer to the Application Handbook for information and guidance regarding how to address specific evaluation criteria set forth below.

- 1) Address Title 11 requirements for a concept plan or comprehensive plan. Describe how the proposed planning grant will address the requirements for either a concept plan or comprehensive plan or both as described in Title 11.
 - a. If not proposing to complete a full plan, describe how the portion proposed will result in an action that secures financial and governance commitment that facilitates the next steps in the planning process.
 - b. If not proposing a planning grant for the full Urban Reserve area, describe how the proposal will still allow for coordinated development of the entire area as a complete community and address any applicable principles for concept planning of urban reserves contained in the urban and rural reserve intergovernmental agreement between Metro and the county.
- 2) Regionally Significant: Unless addressed in criteria #1, describe how the proposed planning grant will benefit the region in achieving established regional development goals and outcomes, including sustainability practices, as expressed in the 2040 Growth Concept and the Six Desired Outcomes adopted by the Metro Council to guide future planning in the region, which include:
 - a. People live and work in vibrant communities where their everyday needs are easily accessible;
 - 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 climate change*;
 - 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) Address how the proposed project will meet local needs and contribute solutions to regional needs. Describe whether and how the proposal will meet a variety of community needs, including land uses such as mixed use development and large lot industrial sites are anticipated to continue to be regional needs.
- 4) Demonstrate jurisdictional and service provider commitments necessary for a successful planning and adoption process. Applications should reflect commitment by county, city and relevant service providers to participate in the planning effort and describe how governance issues will be resolved through or prior to the planning process. Describe the roles and responsibilities of the county, city and relevant service providers for accomplishing the commitments.
- 5) Address readiness of land for development in areas added to the UGB since 2009 and Urban Reserves. For applications in areas added to the UGB since 2009, demonstrate that market conditions would be ready to support development and efficient use of land or define the steps that the project would undertake to influence market conditions.
- 6) Best Practices Model: Consideration will also be given to applications that can be easily replicated in other locations and demonstrate best practices. Discuss how lessons learned from the planning project will be shared with other communities in the region.
- 7) Leverage: 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.
- 8) Matching Fund/Potential: A ten percent (10%) local match is required either as a direct financial contribution or as an in-kind contribution. Discuss whether any portion of the total project cost will be incurred by the applicant and/or its partners. Explain specific portions of the work scope the match money would fund.
- 9) Growth Absorption: Discuss how this project will create opportunities to accommodate expected population and employment growth consistent with local planning. ~~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.~~
- 10) Public Involvement: Discuss whether and how the public, including neighbors of the project, businesses, property owners, key stakeholders, and disadvantaged communities including low income and minority populations, will be involved ~~formed~~ in the progress of the project and how their input will be used to strengthen the project outcomes and increase the likelihood of implementation.
- 11) Governing Body: Describe the role of the governing body in relation to:
 - a. The type of action to be taken to implement the final product; and

b. Where applicable, how public voting requirements for annexation and transit improvements will be addressed so that the outcome of proposed planning projects can be realized.

12) Capacity of applicant: Describe the skill set needed and the qualifications of the staff and/or consulting teams proposed to carry out the planning project.

C. 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. The Grant Request shall include also outcome measures specific to the project and source of data and information for Metro's use for evaluation of the progress of the CPDG program. Milestones and grant payment allocations should follow the following general guidelines:

- 1) Execution of the ~~CET Grant~~ CPDG 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~~ CPDG;
- 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~~ CPDG award, addressing compliance with the Urban Growth Management Functional Plan, the applicable conditions of the ~~CET Grant~~ CPDG award, and applicable state laws and regulations; and
- 4) Grant Applicant's ~~action adoption of~~ on the 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~~ CPDG award, consistent with the Functional Plan, the applicable conditions of the ~~CET Grant~~ CPDG award, and applicable state law. The governing body of the applicant shall authorize the action on the final products.
- 5) Grant Applicant's proposed outcome measures specific for the project and source of data and information for Metro's use for evaluation of the progress of this grant program.
- 6) Grant Applicant's proposed method of sharing lessons learned during the planning project for the purpose of benefiting other jurisdictions in the region.

~~e. Grant Screening Committee Review of Grant Request.~~

~~The Screening Committee shall recognize the intent of the grants to lead to on-the-ground development and prioritize projects with broad public and private sector support. 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 Intergovernmental Agreement (“Grant IGA”).** Upon the award of a grant, the Metro Chief Operating Officer shall issue a Grant Letter for the grant amount determined by the Metro Council. Metro and the Grant Applicant shall enter into a Grant Intergovernmental Agreement (“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 governing body of the Grant applicant jurisdiction shall authorize the approval of the IGA. The IGA shall set forth an agreed-upon scope of work and budget, completion dates of expected milestones completion dates and deliverables, and Grant payment dates and payment amount for each milestone. The scope of work in the grant application and guidelines above in Section IV.E.2.C as modified by any condition in Metro Council grant award shall be the basis for Metro and grantee to negotiate the IGA. 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) Deadline for Signing IGA: If the IGA has not been signed by Metro and grantee within six months of grant award, the COO shall exercise the authority to cancel the grant award.

b) Grant Payments: The grant payment amount and marching fund shall be stated in the IGA. Grant payments shall be made upon the completion of those milestones set forth in the Grant Agreement IGA, as determined by Metro in accordance with the requirements of the Metro Code and the Grant Agreement IGA. In general, a portion of the Grant funds shall be distributed upon execution of a Grant Agreement IGA 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 IGA. Grantees shall submit progress reports to Metro documenting the milestone and the completed deliverables for grant payment.

c) Eligible Expenses.

1. The following expenses shall be considered Eligible Expenses for ~~CET Grant~~ CPDG 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. Grant requests to reimburse local governments for planning work already completed shall not be considered.

3. 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.

d) Metro staff liaison: Grantees shall work closely with the Metro staff liaison, and include them in the appropriate advisory committee for the project.

- e) Completion of grant project: The COO shall retain the right to terminate a CPDG award if the milestones set forth in the IGA are not met within the timeframes set forth in the IGA.

4. Application Handbook: Before soliciting applications for the planning and development grants, Metro shall publish a handbook with details on how to submit applications, prepare a project budget linked to expected outcomes and milestones, and deadlines for applicants to submit letters of intent and full applications.

ATTACHMENT D

ADMINISTRATIVE RULES: METRO CODE CHAPTER 7.04 [Revised March 2015]

Effective July 1, 2006, and extended through December 31, 2020, Metro has established as Metro Code Chapter 7.04 a Construction Excise Tax (“CET”) to fund Community Planning and Development Grants (“CPDG”). 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.
- F. 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, after consultation with Metro Council.

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%

$$(0.0012 \times \text{Value of New Construction})$$

- 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 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 five percent (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 five percent (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 December 31, 2020.
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.
4. The CET shall cease to be imposed by local governments on December 31, 2020, and shall be remitted by the local governments to Metro as soon thereafter as possible.

III. CET Collection Procedures.

D. 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 30th 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 five percent (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.
- E. 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 2014 extension of the CET shall be allocated in three new application assessment cycles (Cycle 4, Cycle 5 and Cycle 6).

1. The Cycle 1 fund distribution took place in March 2006, which allocated up to \$6.3 million in grants. Grant requests in this cycle were made for planning only in new areas that were brought into the Urban Growth Boundary (UGB) between 2002 and 2005.
2. The Cycle 2 grant allocation through the Community Planning and Development Grant program (CPDG) took place in June 2010, which allocated up to \$3.57 million in CET Grants revenue. Grant requests in this cycle were made for planning in all areas that are in the Urban Growth Boundary (UGB) as of December 2009.
3. The Cycle 3 grant allocation took place in August 2013, which allocated \$4.5 million in grants. Grant requests in this cycle were made for planning in all areas that are in the UGB as of December 2009, plus areas added to the UGB since 2009 and Urban Reserves. This cycle earmarked fifty percent (50%) of projected CET revenues for planning in areas added to the UGB since 2009 and Urban Reserves, and required that if the amount of qualified Grant Requests for areas added to the UGB since 2009 and Urban Reserves does not equal or exceed the earmarked amounts, the remainder of funds may be allocated to Grant Requests for planning in other areas.
4. The Cycle 4 grant allocation shall take place in 2015-2016 for planning in all areas that are in the UGB and Urban Reserves. This grant allocation shall earmark seventy percent to seventy five percent (70% to 75%) of projected revenue for planning within the existing UGB, and earmark twenty five percent to thirty percent (25% to 30%) of projected revenue for concept planning and comprehensive planning for urban reserves and new urban areas, and require that if the amount of qualified Grant Requests for areas added to the UGB since 2009 and Urban Reserves does not equal or exceed the earmarked amounts, the remainder of funds may be allocated to Grant Requests for planning in other areas.
5. The Cycle 5 grant allocation shall take place in 2017-2018 for planning in all areas that are in the UGB and Urban Reserves. This grant allocation shall earmark seventy percent to seventy five percent (70% to 75%) of projected revenue for planning within the existing UGB, and earmark twenty five percent to thirty percent (25% to 30%) of projected revenue for concept planning and comprehensive planning for urban reserves and new urban areas, and require that if the amount of qualified Grant Requests for areas added to the UGB since 2009 and Urban Reserves does not equal or exceed the earmarked amounts, the remainder of funds may be allocated to Grant Requests for planning in other areas.

6. The Cycle 6 grant allocation shall take place in 2019-2020 for planning in all areas that are in the UGB and Urban Reserves. This grant allocation shall earmark seventy percent to seventy five percent (70% to 75%) of projected revenue for planning within the existing UGB, and earmark twenty five percent to thirty percent (25% to 30%) of projected revenue for concept planning and comprehensive planning for urban reserves and new urban areas, and require that if the amount of qualified Grant Requests for areas added to the UGB since 2009 and Urban Reserves does not equal or exceed the earmarked amounts, the remainder of funds may be allocated to Grant Requests for planning in other areas.

7. 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, or if required by Metro's spending cap limitations.

8. Metro may conduct additional allocation cycles if the Metro Chief Operating Officer finds that CET receipts are projected to exceed the grant amounts awarded in Cycle 4 and Cycle 5 and Cycle 6.

B. CPDG Screening Committee ("Committee").

1. Role. A CPDG 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 grant Evaluation Criteria set forth below. The COO shall review the Committee's recommendations and shall forward her/his own grant recommendations, along with the recommendations of the CPDG Screening Committee, to the Metro Council. The Metro Council shall make final grant decisions in a public hearing. A new CPDG Screening Committee shall be established for Cycle 4, Cycle 5 and Cycle 6 grants, but may include members from the previous Committees.

2. CPDG Screening Committee Members. The COO shall appoint six to nine members to the Committee, including the Committee Chair. Skill sets to be represented will be composed of the following expertise:

- Economic development;
- Urban planning;
- Real estate and finance;
- Infrastructure finance relating to development or redevelopment;
- Local government;
- Urban renewal and redevelopment;
- Business and commerce;
- Neighborhood Association or Community Planning Commission with an understanding of community livability issues; and
- Environmental sustainability relating to development or redevelopment.
- Social equity relating to community development and redevelopment planning

F. CPDG Screening Committee Review of Grant Requests.

1. Metro staff shall forward the letters of intent and Grant Requests to the members of the Screening Committee, and will provide staff assistance to the Committee.

2. The Screening Committee shall then review the Grant Requests and evaluate them based on the CPDG Evaluation Criteria set forth below. The Screening Committee shall use the criteria as guidelines for evaluating applications. 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 her/his own grant recommendations, based on the CPDG Requests Evaluation Criteria set forth below, along with the recommendations of the 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 her/his own grant recommendations, along with the recommendations of the 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 request to Metro for CPDG funds, each Grant Applicant that anticipates requesting CPDG funds in Cycle 4, Cycle 5 and Cycle 6 shall submit electronic Letter of Intent to the Metro Chief Operating Officer.
 - a. Grant Applicant. CPDG applicants shall be cities or counties within the Metro boundary. Other local governments, as defined in ORS 174.116, may apply for a CPDG only in partnership with a city or county within the Metro boundary.
 - b. 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 CPDG Request Evaluation Criteria, and proposed milestones for grant payments. Metro staff and the grant applications Screening Committee shall review the Letter of Intent and Metro staff will send comments to the local governments.
 2. **Step Two: Grant Request.** After submitting the Letter of Intent, and after working with Metro staff and Screening Committee if necessary, to revise the proposal, Grant Applicants shall submit an electronic Grant Request to the Metro Chief Operating Officer. The grant request shall include support of the governing body and matching fund commitment with allocation of fund and/or staff resources for the proposed project.

A. Grant Request Evaluation Criteria for Proposed Projects within the current UGB.

For proposed projects within the UGB, the Grant Request shall specifically address how the proposed grant achieves, does not achieve, or is not relevant to, the following criteria ("CPDG Grant Evaluation Criteria"), consistent with the intent of the Urban Growth Management Functional Plan. Applicants should refer to the Application Handbook for information and guidance regarding how to address specific evaluation criteria set forth below.

1) Expected Development Outcomes: Explain what planning activities are proposed to be undertaken with the planning and development grant, and how those activities will identify and reduce the barriers to developing complete communities. Address:

a) Identification of opportunity site/s within the boundary of the proposed project area with catalyst potential that focus on jobs growth and/or housing. Explain the characteristics of the site/s and how the proposed project will lead to a catalytic investment strategy with private and public sector support.

b) Clearly articulated and realistic desired outcomes from the planning grant that increase community readiness for development.

c) Delete extra subsection (c)

c) The level of community readiness and local commitment to the predicted development outcomes; considerations include:

7. Track record of successful implementation of community development projects and/or past CPDG plan implementation

8. Development sites of adequate scale to generate critical mass of activity;

9. Existing and proposed transportation infrastructure to support future development;

10. Existing urban form provides strong redevelopment opportunities;

11. Sound relationship to adjacent residential and employment areas;

12. Compelling vision and long-term prospects;

d) Describe the roles and responsibilities of the applicant and county or city, and relevant service providers for accomplishing the goals of the proposed project.

2) Regionally Significant: Clearly identify how the proposed planning grant will benefit the region in achieving established regional development goals and outcomes, including sustainability practices, expressed in the 2040 Growth Concept and the six Desired Outcomes, adopted by the region to guide future planning, which include:

g. People live and work in vibrant communities where their everyday needs are easily accessible;

h. Current and future residents benefit from the region's sustained economic competitiveness and prosperity;

i. People have safe and reliable transportation choices that enhance their quality of life;

j. The region is a leader in minimizing contributions to climate change;

k. Current and future generations enjoy clean air, clean water and healthy ecosystems;

l. The benefits and burdens of growth and change are distributed equitably.

3) Centers, Corridors, Station Communities and Main Streets: Areas identified on the 2040 Growth Concept Map in the Metro Regional Framework Plan as Centers, Corridors,

Station Communities and Main Streets have been recognized as the principal centers of urban life in the region. These areas are at different stages of development and each has its own character. For planning projects proposed for or within these areas, describe how the planning actions identified in Title 6 of the Metro Urban Growth Management Functional Plan have been previously addressed or will be addressed as part of the proposed project. This includes establishing an area boundary, performing an assessment of the areas, and adopting a plan of actions and investments.

4) Other locations: Discuss how the proposed planning grant facilitates development or redevelopment of the following areas, as applicable:

- g. Employment and industrial areas;
- h. Areas recently brought into the UGB where concept planning has been completed but where additional planning and implementation work is needed in order to make these areas development ready; and/or
- i. Areas with concentrations of underserved or underrepresented groups.

5) Best Practices Model: Consideration will also be given to applications that can be easily replicated in other locations and demonstrate best practices. Discuss how lessons learned from the planning project will be shared with other communities in the region.

6) Leverage: 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.

7) Matching Fund/Potential: A ten percent (10%) local match is required either as a direct financial contribution or as an in-kind contribution. Discuss whether any portion of the total project cost will be incurred by the applicant and/or its partners. Explain specific portions of the work scope the match money would fund.

8) Growth Absorption: Discuss how this project will create opportunities to accommodate expected population and employment growth consistent with local planning.

9) Public Involvement: Discuss whether and how the public, including neighbors of the project, businesses, property owners, key stakeholders, and disadvantaged communities including low income and minority populations, will be involved in the project and how their input will be used to strengthen the project outcomes and increase the likelihood of implementation.

10) Governing Body: Describe the role of the governing body in relation to:

- a. The type of action to be taken to implement the final product; and
- b. Where applicable, how public voting requirements for annexation and transit improvements will be addressed so that the outcome of proposed planning projects can be realized.

- 11) Capacity of applicant: Describe the skill set needed and the qualifications of the staff and/or consulting teams proposed to carry out the planning project.

B. Grant Request Evaluation Criteria for Proposed Projects within areas added to the UGB since 2009 and Urban Reserves.

Grant requests for projects in areas added to the UGB since 2009 and Urban Reserves shall specifically address how the proposed grant achieves, does not achieve, or is not relevant to the following criteria, drawn from the Urban Growth Management Functional Plan (UGMFP). While the UGMFP's Title 11 (Planning for New Urban Areas) calls for completion of a concept plan prior to Council decision to add the area to the UGB, award of a grant for concept planning in urban reserves by the Metro Council should not be interpreted as a commitment by Metro to add the area to the UGB in the next cycle. Applications should note whether the planning project includes an Urban Reserve area. The Screening Committee shall emphasize using available funds to spur development. Applicants should refer to the Application Handbook for information and guidance regarding how to address specific evaluation criteria set forth below.

- 6) Address Title 11 requirements for a concept plan or comprehensive plan. Describe how the proposed planning grant will address the requirements for either a concept plan or comprehensive plan or both as described in Title 11.
- d. If not proposing to complete a full plan, describe how the portion proposed will result in an action that secures financial and governance commitment that facilitates the next steps in the planning process.
 - e. If not proposing a planning grant for the full Urban Reserve area, describe how the proposal will still allow for coordinated development of the entire area as a complete community and address any applicable principles for concept planning of urban reserves contained in the urban and rural reserve intergovernmental agreement between Metro and the county.
- 7) Regionally Significant: Unless addressed in criteria #1, describe how the proposed planning grant will benefit the region in achieving established regional development goals and outcomes, including sustainability practices, as expressed in the 2040 Growth Concept and the Six Desired Outcomes adopted by the Metro Council to guide future planning in the region, which include:
- g. People live and work in vibrant communities where their everyday needs are easily accessible;
 - h. Current and future residents benefit from the region's sustained economic competitiveness and prosperity;
 - i. People have safe and reliable transportation choices that enhance their quality of life*;
 - j. The region is a leader in minimizing contributions to climate change*;

- k. Current and future generations enjoy clean air, clean water and healthy ecosystems;
 - l. The benefits and burdens of growth and change are distributed equitably*.
- 8) Address how the proposed project will meet local needs and contribute solutions to regional needs. Describe whether and how the proposal will meet a variety of community needs, including land uses such as mixed use development and large lot industrial sites are anticipated to continue to be regional needs.
- 9) Demonstrate jurisdictional and service provider commitments necessary for a successful planning and adoption process. Applications should reflect commitment by county, city and relevant service providers to participate in the planning effort and describe how governance issues will be resolved through or prior to the planning process. Describe the roles and responsibilities of the county, city and relevant service providers for accomplishing the commitments.
- 10) Address readiness of land for development in areas added to the UGB since 2009 and Urban Reserves. For applications in areas added to the UGB since 2009, demonstrate that market conditions would be ready to support development and efficient use of land or define the steps that the project would undertake to influence market conditions.
- 11) Best Practices Model: Consideration will also be given to applications that can be easily replicated in other locations and demonstrate best practices. Discuss how lessons learned from the planning project will be shared with other communities in the region.
- 12) Leverage: 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.
- 13) Matching Fund/Potential: A ten percent (10%) local match is required either as a direct financial contribution or in-kind contribution. Discuss whether any portion of the total project cost will be incurred by the applicant and/or its partners. Explain specific portions of the work scope the match money would fund.
- 14) Growth Absorption: Explain how this project will create opportunities to accommodate expected population and employment growth consistent with local planning.
- 15) Public Involvement: Discuss whether and how the public, including neighbors to the project, businesses, property owners, key stakeholders, and disadvantaged communities including low income and minority populations, will be involved in the project and how their input will be used to strengthen the project outcomes and increase the likelihood of implementation.
- 11) Governing Body: Describe the role of the governing body in relation to:
 - a. The type of action to be taken to implement the final product; and

- b. Where applicable, how public voting requirements for annexation and transit improvements will be addressed so that the outcome of proposed planning projects can be realized.

- 12) Capacity of applicant: Describe the skill set needed and the qualifications of the staff and/or consulting teams proposed to carry out the planning project.

D. 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 milestones proposed in the Grant Request. The Grant Request shall include also outcome measures specific to the project and source of data and information for Metro's use for evaluation of the progress of the CPDG program. Milestones and grant payment allocations should follow the following general guidelines:

- 7) Execution of the CPDG IGA;
- 8) 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 CPDG;
- 9) 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 CPDG award, addressing compliance with the Urban Growth Management Functional Plan, the applicable conditions of the CPDG award, and applicable state laws and regulations; and
- 10) Grant Applicant's action on the 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 CPDG award, consistent with the Functional Plan, the applicable conditions of the CPDG award, and applicable state law. The governing body of the applicant shall authorize the action on the final products.
- 11) Grant Applicant's proposed outcome measures specific for the project and source of data and information for Metro's use for evaluation of the progress of this grant program.
- 12) Grant Applicant's proposed method of sharing lessons learned during the planning project for the purpose of benefiting other jurisdictions in the region.

3. **Step Three: Grant Intergovernmental Agreement ("IGA").** Upon the award of a grant, the Metro Chief Operating Officer shall issue a Grant Letter for the grant amount determined by the Metro Council. Metro and the Grant Applicant shall enter into a Grant Intergovernmental Agreement ("IGA"). The governing body of the Grant applicant jurisdiction shall authorize the approval of the IGA. The IGA shall set forth an agreed-upon scope of work and budget, completion dates of expected milestones and deliverables, and Grant payment dates and payment amount for each milestone. The scope of work in the grant application and guidelines above in Section

IV.E.2.C as modified by any condition in Metro Council grant award shall be the basis for Metro and grantee to negotiate the IGA.

- b) **Deadline for Signing IGA:** If the IGA has not been signed by Metro and grantee within six months of grant award, the COO shall exercise the authority to cancel the grant award.
 - b) **Grant Payments:** The grant payment amount and marching fund shall be stated in the IGA. Grant payments shall be made upon the completion of those milestones set forth in the IGA, as determined by Metro in accordance with the requirements of the Metro Code and the IGA. In general, a portion of the Grant funds shall be distributed upon execution of a IGA with Metro, with the remainder of the Grant being paid out as progress payments upon completion of the milestones in the IGA. Grantees shall submit progress reports to Metro documenting the milestone and the completed deliverables for grant payment.
 - c) **Eligible Expenses.**
 - 1. The following expenses shall be considered Eligible Expenses for CPDG consideration for eligible direct costs, which will have priority for funding over indirect costs:
 - v. Materials directly related to project;
 - vi. Consultants' work on project;
 - vii. Grant Applicant staff support directly related to project; and
 - viii. Overhead directly attributable to project;
 - 2. Grant requests to reimburse local governments for planning work already completed shall not be considered.
 - 3. 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.
 - d) **Metro staff liaison:** Grantees shall work closely with the Metro staff liaison, and include them in the appropriate advisory committee for the project.
 - e) **Completion of grant project:** The COO shall retain the right to terminate a CPDG award if the milestones set forth in the IGA are not met within the timeframes set forth in the IGA.
- 4. Application Handbook:** Before soliciting applications for the planning and development grants, Metro shall publish a handbook with details on how to submit applications, prepare a project budget linked to expected outcomes and milestones, and deadlines for applicants to submit letters of intent and full applications.