



600 NE Grand Ave.  
Portland, OR 97232-2736

## Council work session agenda

---

Tuesday, November 1, 2016

2:00 PM

Metro Regional Center, Council Chamber

---

**1. Call to Order and Roll Call**

**2. Chief Operating Officer Communication**

**3. Work Session Topics**

3.1 2017 State Legislative Agenda [16-0037](#)

Presenter(s): Randy Tucker, Metro

Attachments: [Work Session Worksheet](#)  
[Draft Metro Council 2017 Legislative Principles](#)  
[Recreational Immunity 2017](#)  
[ODFW Condor Funding](#)

3.2 Update on Regional Equitable Housing Solutions [16-0099](#)

Presenter(s): Elissa Gertler, Metro

Attachments: [Work Session Worksheet](#)

- 3.3 Discuss Chief Operating Officer Recommendation of FY 2016-17 Funding for Equitable Housing Planning and Development Grants

[16-0008](#)

Presenter(s): Martha Bennett, Metro  
Elissa Gertler, Metro  
Gerry Uba, Metro

Attachments: [Work Session Worksheet](#)  
[Draft Resolution No. 16-4753](#)  
[Draft Exhibit A to Resolution No. 16-4753](#)  
[Draft Attachment A to Exhibit A](#)  
[Draft Attachment B to Exhibit A](#)  
[Draft Attachment C to Exhibit A](#)  
[Co-Chairs Recommendations to COO](#)  
[Draft Staff Report](#)  
[Draft Attachment 1 to Staff Report](#)  
[Draft Attachment 2 to Staff Report](#)

4. **Councilor Communication**
5. **Adjourn**

# Metro respects civil rights

Metro fully complies with Title VI of the Civil Rights Act of 1964 and related statutes that ban discrimination. If any person believes they have been discriminated against regarding the receipt of benefits or services because of race, color, national origin, sex, age or disability, they have the right to file a complaint with Metro. For information on Metro’s civil rights program, or to obtain a discrimination complaint form, visit [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights) or call 503-797-1536. Metro provides services or accommodations upon request to persons with disabilities and people who need an interpreter at public meetings. If you need a sign language interpreter, communication aid or language assistance, call 503-797-1890 or TDD/TTY 503-797-1804 (8 a.m. to 5 p.m. weekdays) 5 business days before the meeting. All Metro meetings are wheelchair accessible. For up-to-date public transportation information, visit TriMet’s website at [www.trimet.org](http://www.trimet.org).

### Thông báo về sự Metro không kỳ thị của

Metro tôn trọng dân quyền. Muốn biết thêm thông tin về chương trình dân quyền của Metro, hoặc muốn lấy đơn khiếu nại về sự kỳ thị, xin xem trong [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights). Nếu quý vị cần thông dịch viên ra dấu bằng tay, trợ giúp về tiếp xúc hay ngôn ngữ, xin gọi số 503-797-1890 (từ 8 giờ sáng đến 5 giờ chiều vào những ngày thường) trước buổi họp 5 ngày làm việc.

### Повідомлення Metro про заборону дискримінації

Metro з повагою ставиться до громадянських прав. Для отримання інформації про програму Metro із захисту громадянських прав або форми скарги про дискримінацію відвідайте сайт [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights). або Якщо вам потрібен перекладач на зборах, для задоволення вашого запиту зателефонуйте за номером 503-797-1890 з 8.00 до 17.00 у робочі дні за п'ять робочих днів до зборів.

### Metro 的不歧视公告

尊重民權。欲瞭解Metro民權計畫的詳情，或獲取歧視投訴表，請瀏覽網站 [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights)。如果您需要口譯方可參加公共會議，請在會議召開前5個營業日撥打503-797-1890（工作日上午8點至下午5點），以便我們滿足您的要求。

### Ogeysiiska takooris la'aanta ee Metro

Metro waxay ixtiraamtaa xuquuqda madaniga. Si aad u heshid macluumaad ku saabsan barnaamijka xuquuqda madaniga ee Metro, ama aad u heshid warqadda ka cabashada takoorista, booqo [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights). Haddii aad u baahan tahay turjubaan si aad uga qaybqaadatid kullan dadweyne, wac 503-797-1890 (8 gallinka hore illaa 5 gallinka dambe maalmaha shaqada) shan maalmo shaqo ka hor kullanka si loo tixgaliyo codsashadaada.

### Metro의 차별 금지 관련 통지서

Metro의 시민권 프로그램에 대한 정보 또는 차별 항의서 양식을 얻으려면, 또는 차별에 대한 불만을 신고 할 수 [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights). 당신의 언어 지원이 필요한 경우, 회의에 앞서 5 영업일 (오후 5시 주중에 오전 8시) 503-797-1890를 호출합니다.

### Metro의 差別禁止通知

Metroでは公民権を尊重しています。Metroの公民権プログラムに関する情報について、または差別苦情フォームを入手するには、[www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights)。までお電話ください公開会議で言語通訳を必要とされる方は、Metroがご要請に対応できるよう、公開会議の5営業日前までに503-797-1890（平日午前8時～午後5時）までお電話ください。

### សេចក្តីជូនដំណឹងអំពីការមិនរើសអើងរបស់ Metro

ការគោរពសិទ្ធិពលរដ្ឋរបស់ ។ សំរាប់ព័ត៌មានអំពីកម្មវិធីសិទ្ធិពលរដ្ឋរបស់ Metro ឬដើម្បីទទួលបានការបណ្តឹងរើសអើងសូមចូលទស្សនាគេហទំព័រ [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights)។

បើលោកអ្នកត្រូវការអ្នកបកប្រែភាសានៅពេលអង្គប្រជុំសាធារណៈ សូមទូរស័ព្ទមកលេខ 503-797-1890 (ម៉ោង 8 ព្រឹកដល់ម៉ោង 5 ល្ងាច ថ្ងៃធ្វើការ) ប្រាំពីរថ្ងៃ ថ្ងៃធ្វើការ មុនថ្ងៃប្រជុំដើម្បីអាចឲ្យគេសម្រួលតាមសំណើរបស់លោកអ្នក ។

### إشعار بعدم التمييز من Metro

تحتزم Metro الحقوق المدنية. للمزيد من المعلومات حول برنامج Metro للحقوق المدنية أو لإيداع شكوى ضد التمييز، يرجى زيارة الموقع الإلكتروني [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights). إن كنت بحاجة إلى مساعدة في اللغة، يجب عليك الاتصال مقدماً برقم الهاتف 503-797-1890 (من الساعة 8 صباحاً حتى الساعة 5 مساءً، أيام الاثنين إلى الجمعة) قبل خمسة (5) أيام عمل من موعد الاجتماع.

### Paunawa ng Metro sa kawalan ng diskriminasyon

Iginagalang ng Metro ang mga karapatang sibil. Para sa impormasyon tungkol sa programa ng Metro sa mga karapatang sibil, o upang makakuha ng porma ng reklamo sa diskriminasyon, bisitahin ang [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights). Kung kailangan ninyo ng interpreter ng wika sa isang pampublikong pulong, tumawag sa 503-797-1890 (8 a.m. hanggang 5 p.m. Lunes hanggang Biyernes) lima araw ng trabaho bago ang pulong upang mapagbigyan ang inyong kahilingan. Notificación de no discriminación de Metro.

### Notificación de no discriminación de Metro

Metro respeta los derechos civiles. Para obtener información sobre el programa de derechos civiles de Metro o para obtener un formulario de reclamo por discriminación, ingrese a [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights). Si necesita asistencia con el idioma, llame al 503-797-1890 (de 8:00 a. m. a 5:00 p. m. los días de semana) 5 días laborales antes de la asamblea.

### Уведомление о недопущении дискриминации от Metro

Metro уважает гражданские права. Узнать о программе Metro по соблюдению гражданских прав и получить форму жалобы о дискриминации можно на веб-сайте [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights). Если вам нужен переводчик на общественном собрании, оставьте свой запрос, позвонив по номеру 503-797-1890 в рабочие дни с 8:00 до 17:00 и за пять рабочих дней до даты собрания.

### Avizul Metro privind nediscriminarea

Metro respectă drepturile civile. Pentru informații cu privire la programul Metro pentru drepturi civile sau pentru a obține un formular de reclamație împotriva discriminării, vizitați [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights). Dacă aveți nevoie de un interpret de limbă la o ședință publică, sunați la 503-797-1890 (între orele 8 și 5, în timpul zilelor lucrătoare) cu cinci zile lucrătoare înainte de ședință, pentru a putea să vă răspunde în mod favorabil la cerere.

### Metro txoj kev ntxub ntxaug daim ntawv ceeb toom

Metro tributes cai. Rau cov lus qhia txog Metro txoj cai kev pab, los yog kom sau ib daim ntawv tsis txaus siab, mus saib [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights). Yog hais tais koj xav tau lus kev pab, hu rau 503-797-1890 (8 teev sawv ntxov txog 5 teev tsaus ntuj weekdays) 5 hnub ua hauj lwm ua ntej ntawm lub rooj sib tham.

Agenda Item No. 3.1

**2017 STATE LEGISLATIVE AGENDA**

Metro Council Work Session  
Tuesday, November 1, 2016  
Metro Regional Center, Council Chamber

# METRO COUNCIL

## Work Session Worksheet

**PRESENTATION DATE:** November 1, 2016      **TIME:** 2:10 PM      **LENGTH:** 45 minutes

**PRESENTATION TITLE:** 2017 State Legislative Agenda

**DEPARTMENT:** Government Affairs and Policy Development

**PRESENTER(S):** Randy Tucker, (503) 797-1512, randy.tucker@oregonmetro.gov

### WORK SESSION PURPOSE & DESIRED OUTCOMES

- **Purpose:** This work session is the first opportunity to discuss the 2017 legislative session and the Metro Council's objectives for the session. Proposed legislative principles and concepts will be presented; additional concepts will be presented at subsequent work sessions.
- **Outcome:** The Council may wish to discuss specific legislative concepts or principles or direct staff to develop additional concepts.

### TOPIC BACKGROUND & FRAMING THE WORK SESSION DISCUSSION

Preparations are under way for the 2017 legislative session, which convenes in January but starts in earnest in February. The Council is aware of the extensive work being undertaken by many parties to develop a transportation package to propose to the Legislature; this has been discussed at a previous work session August 30, and will be discussed again in the future. Today's work session is for the purpose of opening the conversation on other potential 2015 issues.

The deadline for requesting drafts of legislation for pre-session filing was in September. Staff has submitted a number of concepts for drafting in order to meet this deadline, pending Council's input about whether to pursue these concepts. Those concepts will be described in separate issue sheets and discussed at a subsequent work session.

### QUESTIONS FOR COUNCIL CONSIDERATION

- Does the Council wish to endorse the concepts to be presented today?
- Are there other topics on which the Council would like to adopt legislative positions?
- Does the Council wish to make changes to the Legislative Principles that guide the actions of staff on issues that may arise during the 2017 session?

### PACKET MATERIALS

- Would legislation be required for Council action  Yes  No
- If yes, is draft legislation attached?  Yes  No
- What other materials are you presenting today? Legislative issue sheets, principles

## METRO COUNCIL 2017 LEGISLATIVE PRINCIPLES<sup>1</sup>

### LOCAL AUTHORITY

1. **Pre-emption:** With respect to issues related to solid waste management, land use, transportation planning and other matters of regional concern, Metro's authority should not be pre-empted or eroded.
2. **Funding:** To ensure a prosperous economy, a clean and healthy environment, and a high quality of life for all of their citizens, Metro and the region's counties, cities, and other service providers must have the financial resources to provide sustainable, quality public services. Accordingly, the Legislature should remove existing restrictions on local and regional revenue-raising authority and avoid enacting new limitations or pre-emptions, and all state mandates should be accompanied by funding.

### LAND USE AND URBAN GROWTH MANAGEMENT:

3. **Local Authority:** The Legislature should take no actions that reduce or compromise Metro's land use and urban growth management authority.
4. **Oregon's Land Use System:** Oregon's land use planning system provides an important foundation for the prosperity, sustainability and livability of our region; this system reflects the values of Oregonians and enjoys strong public support.<sup>2</sup> The Legislature should exercise restraint and care when considering changes to Oregon's land use system.
5. **Successful Communities:** Metro supports legislation that facilitates the achievement of the six desired outcomes for successful communities that have been agreed upon by the region: vibrant, walkable communities; economic competitiveness and prosperity; safe and reliable transportation choices; leadership in minimizing contributions to global warming; clean air, clean water and healthy ecosystems; and equitable distribution of the burdens and benefits of growth and change.<sup>3</sup>
6. **Local Land Use Decisions:** Management of the urban growth boundary is a complex undertaking that involves extensive analysis, public input, and a balancing of many factors. Urban growth management decisions have profound impacts not just on land at the boundary, but on communities within the boundary and on farms and other rural lands outside the boundary. For these reasons, the Legislature should establish the process and policy framework for local land use decisions and should affirm the authority of local governments, including Metro, to make specific decisions on local land use matters.
7. **Efficiency:** Land within the urban growth boundary should be used efficiently before the boundary is expanded.<sup>4</sup>
8. **Need:** The UGB should not be expanded in the absence of demonstrated need.<sup>5</sup>
9. **Affordable Housing:** Metro supports efforts to ensure that housing choices are available to people of all incomes in every community in our region, and to reduce the number of households that must spend more than 50 percent of their income on housing plus transportation.<sup>6</sup>
10. **Transportation:** Land use and transportation planning should be coordinated so land uses do not undermine the efficiency and reliability of the transportation system and transportation investments do not lead to unintended or inefficient land uses.<sup>7</sup>

11. **Annexation:** Cities are the preferred governing structure for providing public services to urban areas, and Metro supports reforms that will facilitate, or reduce barriers to, orderly annexation and incorporation.
12. **Rules/Statutes:** Administrative rules should not be adopted into statute.
13. **Non-Regulatory Tools:** State efforts at regulatory streamlining should include funding to support development of non-regulatory tools for achieving desired land use outcomes.<sup>8</sup>
14. **Fiscal Responsibility:** Funding to support urban development should be generated at least in part by fees on those who directly benefit from that development.

**SOLID WASTE:**

15. **Product stewardship:** Metro supports efforts to minimize the health, safety, environmental, economic and social risks throughout all lifecycle stages of a product and its packaging, and believes that the producer of the product has the greatest ability, and therefore the greatest responsibility, to minimize those adverse impacts.

**TRANSPORTATION:**

15. **Transportation Governance:** The Legislature should take no actions that reduce or compromise Metro's or JPACT's authority in the areas of transportation policy and funding.
16. **Transportation Funding:** Providing adequate funding for all transportation modes that move passengers and freight supports economic prosperity, community livability, public health and environmental quality. For these reasons, Metro supports an increase in overall transportation funding, investments in a balanced multimodal transportation system that addresses the needs of all users, and flexibility in the system to provide for local solutions to transportation problems.

**PARKS AND NATURAL AREAS:**

17. **Parks and Natural Areas:** Our region believes in protecting water quality and wildlife habitat and providing residents with access to nature and outdoor activity. Parks and natural areas are regional assets that support public health, environmental quality, strong property values and economic prosperity. For these reasons, Metro supports measures to increase local and regional authority to raise revenues to support parks and natural areas and to increase the level of state funding distributed to local governments for acquisition, capital improvements, and park operations.

**SUSTAINABILITY:**

18. **Climate Change:** Metro supports efforts to combat and adapt to climate change and to meet the state's goals for reducing greenhouse gas emissions.
19. **Conservation Education:** Metro supports efforts to provide stable and reliable funding to conservation education.

**ECONOMIC PROSPERITY:**

20. **Infrastructure Finance:** Metro supports measures, including funding or revenue measures, which facilitate state, regional or local investments in the public structures needed to accommodate population and economic growth in a way that helps the region achieve its six desired outcomes for successful communities.

**21. Metro Venues:** Because the Oregon Convention Center, Expo Center, Portland's Centers for the Arts and Oregon Zoo are assets that contribute millions of dollars to the state and regional economies, Metro supports legislative measures that facilitate the success of these venues in attracting visitors and enhancing the quality of their experiences.

**AGENCY OPERATIONS:**

**22. Firearms and public facilities:** Metro supports legislation that increases Metro's authority to regulate the carrying of firearms on Metro properties and public venues, and opposes legislation that limits or reduces that authority.

---

<sup>1</sup> Unless otherwise noted, endnotes refer to applicable policy statements in Metro's Regional Framework Plan (RFP).

<sup>2</sup> See <http://oregonvaluesproject.org/findings/top-findings/> (specifically item 5, Natural Resource Protections for Future Generations)

<sup>3</sup> RFP Chapter 1 (Land Use).

<sup>4</sup> RFP Policy 1.1 (Compact Urban Form).

<sup>5</sup> RFP Policy 1.9 (Urban Growth Boundary).

<sup>6</sup> RFP Policy 1.3 (Housing Choices and Opportunities).

<sup>7</sup> RFP Policy 1.3.13 (Housing Choices and Opportunities); Transportation Goal 1 (Foster Vibrant Communities and Efficient Urban Form).

<sup>8</sup> RFP Policy 1.1 (Compact Urban Form); Policy 1.2 (Centers, Corridors, Station Communities and Main Streets).



**METRO**  
**2017 LEGISLATIVE ISSUE IDENTIFICATION**

---

**Department:** GAPD

**Date:** September 21, 2016

**Person completing form:** Frankie Lewington

**Phone:** x7529

**ISSUE:** Recreational Immunity

**BACKGROUND:** *Recreational immunity* provides both public and private landowners, who make their land available without charge for recreational use by the public, protection from tort liability if a person is injured while using the land for recreational purposes. The Oregon Public Use of Lands Act increased the availability of land for free recreation by limiting liability to cities, counties, parks, schools and a wide range of private owners, including farmers and timber companies that allow hunters, anglers, hikers, mountain bikers and other members of the public to use or traverse their lands at no charge.

Recreational Immunity is the cornerstone principle that secures the public policy goals of the Oregon Public Use of Lands Act. However, a recent Oregon Supreme Court decision undermined the immunity guaranteed in the Act, which could leave Metro and its employees extremely vulnerable to tort liability for injuries suffered on Metro properties. As a byproduct of the increased risk, there could be a severe reduction of land available to Oregonians for their recreational use and enjoyment.

In *Johnson v. Gibson*, the Court held that when the Legislature passed the Public Lands Act, it intended only to immunize the actual landowners, and never intended recreational immunity to protect employees or agents acting on behalf of the landowners. This ruling effectively negates public landowners' recreational immunity from tort liability under the Act. Public employers are statutorily required to indemnify their employees and most, if not all, landowners will ultimately be responsible for the acts of their employees that result in injury to a member of the public.

Landowners must now weigh whether allowing the public to recreate on their land and in their facilities is worth the increased risk of liability.

In another recent ruling, *Horton vs. OHSU*, the Court confirmed the need for statutory liability limitations to satisfy the Oregon Constitution's remedy clause and reinstated a flexible analysis for deciding remedy clause cases, which requires the Legislature to clearly demonstrate its reasons for adjusting duties and remedies that one person owes another. Expressly stating the duties owed to members of the public who use public or private land for recreational purposes and why those duties were altered would satisfy the remedies clause and ensure recreation immunity is not illusory for landowners.

**RECOMMENDATION:** Support legislation to restore recreational immunity to employees acting within the scope of their duties to ensure landowners can, without undue risk, continue to allow Oregonians to access their land for recreational use and enjoyment.

Metro is participating in a coalition that has developed this concept. The proposed legislation seeks to amend ORS 105.672 to restore recreational immunity to a landowner's officers, employees, agents or volunteers who are acting within the scope of their employment or duties.

Additionally, the legislation will seek to amend ORS 105.682 to satisfy the remedy clause to expressly state a landowner's duty of care toward members of the public who use the land for recreation without charge.

**LEGISLATIVE HISTORY:** In 2010, the Legislature passed HB 3673, which responded to an earlier legal ruling by extending recreational immunity, under certain circumstances, to cases where the injured party paid to use the land for a purpose different from the activity that led to their claim, or sustained an injury on a different portion of the property than they paid to use. While the specific legal issues addressed by HB 3673 are distinct from those at issue today, it represents the only recent example where Metro participated in a legislative effort related to recreational immunity.

**OTHER INTERESTED PARTIES:** Supporters of this legislation include the Oregon Recreation and Park Association, Special Districts Association of Oregon, Oregon Farm Bureau, Oregonians in Action, Oregon Forest Industries Council, Coalition of Oregon Land Trusts, League of Oregon Cities, City of Portland, City of Salem, City of Medford, Association of Oregon Counties, Oregon School Boards Association.

**IMPACT IF PROPOSED ACTION OCCURS:** Protection for Metro, its employees, and other public employers and employees from legal claims brought by people injured while engaging in recreational activities. Continued willingness of many landowners to allow their land to be used for recreational purposes.

**METRO**  
**2016 LEGISLATIVE ISSUE IDENTIFICATION**

---

**Department:** Oregon Zoo Conservation & Research

**Date:** 20 October 2016

**Person completing form:** David Shepherdson

**Phone:** (503) 756-8329 (cell)

**ISSUE:** ODFW funding for condor recovery and lead ammunition outreach

**BACKGROUND:** The Oregon Fish & Wildlife Commission has approved a Policy Option Package (#144) within ODFW's 2017-2019 Agency Request Budget to provide \$1.32M from the general fund for a Condor Coordinator and a Lead Ammunition Outreach Educator. The agency has recommended this package for inclusion in the Governor's recommended budget. Funding for these two positions will be critical to the success of the proposed reintroduction of condors to Oregon in 2019.

In 1805 Lewis and Clark noted in their diaries the presence of huge vultures in the Columbia River. Sadly, this native bird, now known as the California condor, has not been seen flying wild over Oregon since 1904. In 2003 the Oregon Zoo embarked on a mission to recover condor populations throughout their ancestral range including the Pacific Northwest. We constructed a breeding facility that opened in 2005 and since then we have provided 50 birds for release in California, Arizona and Mexico.

For 10 years we have worked closely with the Yurok Tribe and the National Park Service (Redwood N.P.) to support their planned release of condors in northern California near the Oregon border. Condors are expected to be released in 2019 and will likely fly into Oregon shortly thereafter. In 2014 we opened our Condors of the Columbia exhibit, which introduces the 1.5 million annual zoo visitors to this iconic native bird.

Lead poisoning from ammunition remains the leading cause of mortality for condors. Further education and outreach will be needed in Oregon to inform hunters of the danger to condors and other scavengers of spent lead ammunition, and of the availability of high performance, non-lead alternatives.

In 2015, with support from USFWS, the zoo initiated a Non-Lead Hunting Education Program. We have received strong support from ODFW in this program and partnered with them on presentations, workshops and shooting demonstrations. ODFW funding for lead ammunition outreach would directly support our efforts and allow us to expand the scope of our current efforts at this critical time.

This funding is critical for recovering condors in Oregon, addressing lead exposure in a number of other scavenging species, and building support in the hunting and shooting community for the use of non-lead ammunition, thus continuing hunting's conservation legacy.

**RECOMMENDATION:** ODFW submitted the 2017-19 ODFW budget to the Governor's Office on September 1. The budget includes a Policy Option Package (POP #144) to hire an ODFW condor coordinator and lead ammunition outreach position. Metro, the Oregon Zoo and the Oregon Zoo Foundation submitted a letter of support to the Governor for this Policy Option Package. Metro should support funding of this POP by the Legislature.

**LEGISLATIVE HISTORY:**

N/A

**OTHER INTERESTED PARTIES:** USFWS is currently providing some funding to our Non-Lead Hunting Education program and also supporting the proposed release of condors in northern California in 2019. As explained above, we have worked closely with ODFW in the planning and implementation of our program. ODFW has indicated that if they receive the POP funding, some of this funding may directly benefit our program. The Oregon Hunters Association has also come out in support of POP 144 and is partnering with our program to get information to their members. Portland Audubon were involved in some of the initial planning for this program but subsequently broke off in a different direction with more of a focus on a legislative approach to ban the use of lead ammunition for hunting. Portland Audubon recently hired a position to work on this issue. The Oregon Chapter of The Wildlife Society has partnered with Oregon Zoo to present workshops and shooting demonstrations several times. Nationally the Wildlife Society has published a position statement outlining the scientific evidence that lead ammunition results in wildlife deaths from lead poisoning and calls for the replacement of lead ammunition with non-lead where practical. Oregon Wild has indicated support for education and outreach on this issue (although not necessarily to the exclusion of legislative approaches). The Humane Society is also actively engaged in educating the public about this issue.

Opposition from private land owners to the reintroduction of condors to Oregon is possible due to fear of potential land use restrictions. In an effort to proactively address this concern, USFWS is currently proposing that condors released in northern California be designated an "experimental population" under rule 10(j) of the Endangered Species Act. This designation relaxes some of the restrictions associated with an endangered species and allows for more flexible management.

**IMPACT IF PROPOSED ACTION OCCURS:** The Oregon Zoo has worked to recover the endangered California condor for over 12 years; this funding will increase the chance of condors successfully returning to Oregon. Funding for POP #144 will do this by supporting a condor coordinator as well as providing more resources for non-lead hunting education.

Agenda Item No. 3.2

**UPDATE ON REGIONAL EQUITABLE HOUSING SOLUTIONS**

Metro Council Work Session  
Tuesday, November 1, 2016  
Metro Regional Center, Council Chamber

# METRO COUNCIL

## Work Session Worksheet

**PRESENTATION DATE:** November 1, 2016                      **LENGTH:** 45 minutes  
**PRESENTATION TITLE:** Update on Regional Equitable Housing Solutions  
**DEPARTMENT:** Planning & Development  
**PRESENTER(S):** Elissa Gertler, [Elissa.Gertler@oregonmetro.gov](mailto:Elissa.Gertler@oregonmetro.gov), 503-797-1752

### WORK SESSION PURPOSE & DESIRED OUTCOMES

- **Purpose:** Share preliminary staff assessment of potential regional equitable housing solutions
- **Outcome:** Council provides feedback on overall direction and next steps

### BACKGROUND

The Equitable Housing Initiative is undertaking multiple elements of work to implement the recommendations from the Equitable Housing Report completed in January 2016. One key element of the work program includes evaluating regional funding solutions for investing in equitable housing. As we prepare to undertake the assessment described below, it is an important time to seek Council feedback and direction on the work scope to help inform the process.

As part of the Equitable Housing Initiative, Planning and Development has contracted David Rosen and Associates (DRA)—an international policy, finance, and development advisory team that specialized in affordable housing strategies—to conduct an assessment of regional solutions for investing in equitable housing. The assessment scope will include a market and development typology, an affordability gap analysis, a funding and policy scan of existing state and local tools for addressing equitable housing, and an investment and revenue strategy analysis. The assessment will be completed over the next six months; findings will be presented to the Council in Spring 2017 to seek direction on which strategies are most promising for further exploration and feasibility analysis.

Key criteria to be considered during the assessment include:

- **Quantitative Impact and Return on Investment (ROI):** Number of units created/preserved per dollar invested; potential for leverage
- **Qualitative Impact:** Location and type of housing created or preserved; impact on creating benefits for disadvantaged communities; impact on displacement
- **Flexibility:** Impact in different market types; adaptability through market changes
- **Scale:** Minimum scale necessary to have an impact
- **Compatible Revenue Sources:** Types of funding that could be used for different investment strategies
- **Implementation:** Potential implementation vehicles and partners
- **Policy & Functional Alignment:** Alignment with the 2040 Growth Concept, Goal 10, and Metro's existing functions
- **Existing Efforts:** How crowded the space is; potential for new investment to fill a critical gap in existing resources and programs

In response to the Council's requests for more immediate information about policy and investment opportunities, staff have conducted a preliminary analysis and developed a summary of potential strategies to be further assessed by DRA. Council direction during the work session will help to inform the focus of the upcoming analysis and provide direction for how the Planning and Development and Government Affairs teams move forward with impact assessment and feasibility analysis of potential investment strategies.

#### **QUESTIONS FOR COUNCIL CONSIDERATION**

- Does the Council have feedback on overall direction?

#### **PACKET MATERIALS**

- Would legislation be required for Council action  Yes  No
- If yes, is draft legislation attached?  Yes  No
- What other materials are you presenting today? *None*

Agenda Item No. 3.3

**DISCUSS CHIEF OPERATING OFFICER RECOMMENDATION  
OF FY 2016-17 FUNDING FOR EQUITABLE HOUSING  
PLANNING AND DEVELOPMENT GRANTS**

Metro Council Work Session  
Tuesday, November 1, 2016  
Metro Regional Center, Council Chamber



# METRO COUNCIL

## Work Session Worksheet

**PRESENTATION DATE:** November 1, 2016

**LENGTH:** 45 minutes

**PRESENTATION TITLE:** Discuss Chief Operating Officer recommendation of FY 2016-17 Funding for Equitable Housing Planning and Development Grants

**DEPARTMENT:** Planning and Development

**PRESENTER(S):** Martha Bennett, Chief Operating Officer, 503-797-1541  
Elissa Gertler, Planning and Development Director, 503-797-1752  
Gerry Uba, CPDG project manager, 503-797-1737

### WORK SESSION PURPOSE & DESIRED OUTCOMES

- Purpose: review and discuss applications for Equitable Housing Planning and Development Grants (“Equitable Housing Grants”) program funded with construction excise tax, and also review and discuss the recommendations of the Chief Operating Officer (COO) to the Council, including the recommendations of the Equitable Housing Grants Screening Committee to the COO.
- Outcome: Council consideration of the COO and Grant Screening Committee recommendations and whether these recommendations reflect Council’s direction for the Equitable Housing Grants process and program

### TOPIC BACKGROUND & FRAMING THE WORK SESSION DISCUSSION

On January 7, 2015 and February 16, 2016 Metro Council discussed possible uses of the unallocated construction excise tax revenue from Cycle 4 of the Community Planning and Development Grants (CPDG) recommended by the COO. The Metro Council created the Equitable Housing Planning and Development Grants (“Equitable Housing Grants”) program as a subset of the CPDG program to use additional, unallocated funds to inspire and foster innovative local planning projects that support the creation of equitable housing – defined as *diverse, quality, physically accessible, affordable housing choices with access to opportunities, services, and amenities*. The Equitable Housing Grants are intended to specifically support local governments and their partners in eliminating barriers to equitable housing development—while also helping to build a body of housing-related projects that support regional innovation and knowledge sharing. Consistent with previous recommendations from evaluations of applications for the CPDG program, Equitable Housing Grants applications were evaluated on their ability to achieve the goals of the Regional Framework Plan, which identifies regional policies to implement the 2040 Growth Concept.

Seven local governments submitted eight applications by the August 12, 2016 deadline. In total, the eight applications requested \$680,936 (Staff Report, Attachment 1 provides further detail). The proposed projects will support planning activities that will lead to such outcomes as eliminating barriers

to housing development on a specific site and changes to zoning, permitting, and incentives to support equitable housing at the jurisdiction scale.

Metro's COO appointed six individuals with experience in a variety of fields relating to housing development and planning to the Equitable Housing Grants Screening Committee. In September and October, the Screening Committee met two times to evaluate the applications and develop funding recommendations. While originally the council had approved \$500,000 of funding to be awarded for Equitable Housing Grants, one Cycle 4 CPDG Grant recipient elected not to proceed with their grant project, which added an additional \$75,000 of funding which could potentially be awarded for Equitable Housing Grants if the Council elected to do so. Therefore the Screening Committee was asked to deliver two recommendations:

- recommended funding package at \$500,000
- recommended funding package at \$575,000

In addition, the Screening Committee recommended funding conditions and performance measures and provided feedback on the criteria and evaluation process to inform program evaluation and possible future grant cycles.

The COO has reviewed the recommendations of the Screening Committee and prepared her own recommendations for the Metro Council, based on the Screening Committee's recommendations, the grant evaluation criteria set forth in the Administrative Rules, and the grant applications themselves. The COO will provide her recommendations to the Metro Council and thereafter the Metro Council will make the final grant decisions at a public hearing, currently scheduled for December 1, 2016.

The COO's recommendations will be delivered to the Metro Council prior to the date for public hearing. After reviewing the COO's Grant recommendations, the Grant Screening Committee's recommendations, the grant evaluation criteria, the grant applications themselves, and after taking public testimony, the Metro Council may adopt by resolution all of the COO's recommendations, or may change some of them. The Metro Council will make the final decision regarding the grants.

## **QUESTIONS FOR COUNCIL CONSIDERATION**

- Do you need any more information before you award the grants?
- Do these recommendations and the process reflect the Metro Council policy direction to staff on the grant program?

## **PACKET MATERIALS**

- Would legislation be required for Council action  Yes  No
- If yes, is draft legislation attached?  Yes  No
- What other materials are you presenting today?
  - Draft staff report to Resolution No. 16-4753
  - Chief Operating Officer and Grants Screening Committee Recommendations and Conditions for Funding.

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF APPROVING FISCAL	)	RESOLUTION NO. 16-4753
YEAR 2016-2017 FUNDING FOR EQUITABLE	)	
HOUSING PLANNING AND DEVELOPMENT	)	Introduced by Chief Operating Officer Martha
GRANTS FUNDED WITH CONSTRUCTION	)	Bennett in concurrence with Council
EXCISE TAX	)	President Tom Hughes

WHEREAS, in 2006, Metro adopted Ordinance No. 06-1115, establishing 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 No. 09-1220, extending the CET for an additional five year period, with a sunset date of September 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 No. 14-1328, extending the CET for an additional five year period, with a new sunset date of December 31, 2020; and

WHEREAS, on September 24, 2015 the Metro Council adopted Resolution No. 15-4640, which awarded approximately \$4.76 million in grants for the fiscal year 2015-2016 CPDG cycle (“Cycle 4”), leaving approximately \$230,000 of CET revenue unallocated; and

WHEREAS, in Resolution No. 15-4640 the Metro Council directed the COO and her staff to return to the Council with a proposal regarding possible uses of unallocated CET revenue from Cycle 4; and

WHEREAS, in response to the Metro Council’s directive, the COO and Metro staff developed the Equitable Housing Planning and Development Grant Program as a subset of the CPDG program in order to provide grants using unallocated Cycle 4 CET revenue to support local implementation of projects that eliminate barriers to construction of affordable housing across the region; and

WHEREAS, on February 16, 2016 the Metro Council accepted the COO’s recommendation to create the Equitable Housing Planning and Development Grant Program and to provide an initial budget of \$500,000 for a first round of grants, consisting of the \$230,000 in unallocated Cycle 4 revenue, plus an additional \$270,000 of CET revenue; and

WHEREAS, the COO established an Equitable Housing Grant Screening Committee (“Grant Screening Committee”) consisting of six stakeholders with broad expertise to provide the COO an

assessment of the strength of each grant application in accordance with the criteria set forth in Metro Code Chapter 7.04 and the Administrative Rules; and

WHEREAS, Metro received eight applications from seven local governments seeking a total of \$680,000 in grant funding for equitable housing grant projects; and

WHEREAS, after the eight applications were received, Multnomah County relinquished a \$75,000 grant it received during Cycle 4, which was for the purpose of planning and developing a homeless shelter, causing those funds to also become unallocated; and

WHEREAS, on October 13, 2016 the Grant Screening Committee submitted its recommendations to the COO identifying the projects they selected for grant funding; and

WHEREAS, in accordance with Metro Code Chapter 7.04 and the Administrative Rules, the COO reviewed the recommendations of the Grant Screening Committee, and presented to the Metro Council the COO's recommendations for grant funding, attached to this Resolution as Exhibit A; and

WHEREAS, the Metro Council has reviewed the recommendations of the COO, the work done by the Grant Screening Committee, the grant applications, the grant evaluation criteria, and the public testimony of grant applicants and other interested members of the public;

NOW THEREFORE, BE IT RESOLVED as follows:

- (1) The Metro Council accepts the COO's recommendation to add the unallocated \$75,000 from the lapsed Multnomah County grant to the \$500,000 in unallocated Cycle 4 funds that may be distributed by this resolution, resulting in a total equitable housing grant funding amount of \$575,000; and
- (2) The Metro Council makes the grant awards for the fiscal year 2016-2017 equitable housing grant cycle totaling \$575,000, as set forth in Exhibit A, attached hereto and incorporated herein, to those grant recipients and for those projects and in the amounts listed in Exhibit A, **Addendum No. 1** and **Addendum No. 2**; and
- (3) The Metro Council hereby authorizes and directs the Metro COO and staff, and the Office of Metro Attorney, to negotiate Intergovernmental Agreements with the grant recipients, which shall set forth milestones and funding allocation dates that comply with the Metro Code Construction Excise Tax Chapter 7.04, the CET Administrative Rules, this Resolution No. **16-4753** and Exhibit A attached hereto, including compliance with the conditions of approval attached to each grant award; and
- (4) The Metro Council directs the Metro COO and her staff to develop a program for monitoring success of the investments over time.

ADOPTED by the Metro Council this \_\_\_\_ day of November 2016

---

Tom Hughes, Council President

Approved as to Form:

---

Alison R. Kean, Metro Attorney

Date: October 20, 2016  
To: President Tom Hughes, Metro Council  
From: Martha Bennett, Chief Operating Officer  
Subject: 2016-17 Equitable Housing Planning and Development Grants

---

I am pleased to present my recommendations for the 2016-17 Equitable Housing Planning and Development Grants, a subset of the Community Planning and Development Grant (CPDG) program. Since the Metro Council established the CPDG program with funding from the construction excise tax, it has helped many communities turn potential into vision and vision into action for local and regional plans and policies.

This past spring, after learning that construction excise tax revenue was projected to exceed the grant amounts awarded during Cycle 4 of the CPDG program, the Council instructed staff to develop an Equitable Housing Grant program to help communities undertake planning efforts that will facilitate the creation of equitable housing—defined as *diverse, quality, physically accessible, affordable housing choices with access to opportunities, services and amenities*.

Staff held a pre-application meeting in May; in June, we received eight letters of interest from seven jurisdictions regarding potential projects. Staff provided feedback on letters of interest, and jurisdictions submitted full applications in August.

In July, I appointed a seven-member Grants Screening Committee with varied expertise and backgrounds in the private, nonprofit and public sectors. The Committee reviewed the eight applications submitted by seven jurisdictions, and I asked them to develop recommendations for two funding scenarios: \$500,000 (the amount initially discussed by the Council during the decision to create the program) and \$575,000 (the initial amount plus \$75,000 from the Cycle 4 CPDG grant that was awarded to Multnomah County but that did not move forward because the County returned the funds). The Committee submitted its recommendations to me on October 13, 2016, recommending that seven of the eight proposed projects be fully or partially funded under both the \$500,000 and the \$575,000 scenarios.

The Committee's recommendations are outlined in [Attachment A](#). In accordance with the Committee's recommendations, and to ensure that reduced funding levels do not compromise projects, I recommend total funding of \$575,000, consistent with the Committee's recommendations. Because the \$75,000 that was returned from Multnomah County was for a project dealing with equitable housing issues (barriers to shelter siting), it seems appropriate that this funding be re-allocated to another housing-related project. In addition to the Committee's recommendations, I have proposed some additional funding conditions (in addition to those put forth by the Screening Committee) for the approved projects; you will find these in [Attachment B](#). The full recommendations of the Committee are in [Attachment C](#).

All seven of the projects recommended by the committee for funding meet the requirements of the construction excise tax code and the administrative rules governing the CPDG program. The projects are diverse, ranging from those focused on eliminating barriers to development on specific sites to corridor-, district-, or jurisdiction-wide policy and strategy efforts. These projects will develop and produce policies and plans that will become the foundation for public, private and nonprofit investments in equitable housing. As the first round of CPDG grants specifically focused on housing equity, this portfolio of projects will also yield valuable insights and lessons to help inform future funding for similar work.

One project, the City of Portland's proposal for Terminal One, was not recommended for funding by the Committee. Given the legal and political challenges that exist with the site—including but not limited to its designation as a Metro Title 4 Regionally Significant Industrial Area (RSIA)—I agree with the Committee's recommendation not to invest these resources in a study for a proposal that appears to have feasibility barriers that are unlikely to be overcome. However, recognizing the tremendous challenge our region faces with regard to homelessness, I also recommend that Metro continue exploring ways to partner with the City of Portland, Multnomah County, and other jurisdictions to find policy solutions for addressing barriers to shelter siting and evaluating the viability of potential solutions, such as the Trail of Hope/Haven of Hope concept.

A binder containing the applications submitted by local governments will be delivered to you. After reading the applications, I believe you will share with me an appreciation for the high quality of local planning and development work in our region, and the creative approaches jurisdictions have developed to tackle equitable housing in a way that works for their communities. Please let me or Equitable Housing Initiative Project Manager Emily Lieb know if you have any questions.

Thank you.

Attachments

cc: Elissa Gertler, Planning and Development Department Director  
Gerry Uba, CPDG project manager

**Attachment A: (COO Recommendations to Metro Council)  
2016-2017 Equitable Housing Planning and Development Grants**

**Projects Recommended for Funding**

<b>Project</b>	<b>Funding Request</b>	<b>Recommended Funding @ \$500,000</b>	<b>Recommended Funding @ \$575,000</b>
<b>Portland</b> Equitable Housing Strategy for the Southwest Corridor	<b>\$100,000</b>	\$86,207	\$100,000
<b>Tigard</b> Southwest Corridor Affordable Housing Predevelopment Analysis	\$50,000	\$43,104	\$50,000
<b>Beaverton</b> Anti-Displacement Housing Strategy	\$100,000	\$86,207	\$100,000
<b>Washington County</b> Affordable Housing Site Evaluation, Barriers & Solutions	\$100,000	\$86,207	\$97,500
<b>Oregon City</b> Equitable Housing	\$100,936	\$86,207	\$100,000
<b>Milwaukie</b> Cottage Cluster Feasibility Analysis	\$65,000	\$56,035	\$65,000
<b>Wilsonville</b> Equitable Housing Strategic Plan	\$65,000	\$56,035	\$62,500
		<b>\$500,001</b>	<b>\$575,000</b>

**Projects Recommended for No Funding**

Portland Terminal One (Feasibility assessment of Terminal 1) \$100,000



## **Attachment B: COO recommended funding conditions in addition to Grants Screening Committee recommendations**

### *Funding conditions recommended for all projects:*

- *Engagement:* Within the negotiation of IGAs, it is important to distinguish outreach for site-specific elements of projects from outreach for policy projects. Outreach for site-specific projects or milestones should be focused on property owners (both of the site and its surroundings) and surrounding residents, as well as any development partners and potential target populations that would be served by a site. Outreach and engagement to inform broader policy outcomes should, on the other hand, be more expansive, and should also include specific efforts to reach underrepresented populations and communities of color.
- *Application of “equity lens”:* The screening committee recommended that each project should describe, as a condition for funding, how an equity lens will be applied throughout the project. I would like to propose some more specific guidance regarding equity in light of Metro’s recently adopted Equity Strategy—namely, that all grantees address the following question within their scope of work: *Do we have barriers in our current code that create impediments to housing for communities of color?* Jurisdictions may address this question in a way that makes sense for them. Metro staff will be available to provide technical assistance and, as available, research and data. In addition, grantee jurisdictions within Clackamas County may benefit from the County’s recent Fair Housing Assessment, which is the first assessment of its kind completed in our region under the new federal guidelines for Affirmatively Furthering Fair Housing.

### *Funding conditions recommended for specific projects:*

- *Milwaukie / Cottage Cluster Feasibility Analysis:* The scope needs to be refined to ensure that the code audit happens before any site-specific feasibility analysis. The scope should include robust outreach to ensure that property owner support is secured prior to undertaking any site-specific work.
- *City of Portland / Equitable Housing Strategy for the Southwest Corridor:* The project should be closely coordinated with the recently awarded FTA TOD Grant for the Southwest Corridor Equitable Development Strategy.
- *Wilsonville / Equitable Housing Strategy:* The scope needs to be refined to be more specific and more targeted to reflect different market contexts in the Downtown and Frog Pond areas. The refined scope should lay out 3-5 specific policy strategies focused on multifamily infill development that will be explored for the Downtown area, and 3-5 specific policy strategies to be explored with the aim of increasing affordable homeownership options and “missing middle” housing in the Frog Pond area. Further, the City should commit to implementing a specific number of policies as an outcome of the grant.

## **Attachment C: Equitable Housing Grants Screening Committee Recommendations to COO**

**Date:** October 13, 2016  
**To:** Martha Bennett, Metro Chief Operating Officer  
**From:** Alisa Pyszka and Leila Aman, Co-Chairs, Equitable Housing Planning and Development Grants Screening Committee  
**Subject:** Equitable Housing Grants Screening Committee Recommendations

As co-chairs of the Equitable Housing Planning and Development Grants Screening Committee, we are pleased to present our recommendations for the 2016-17 Equitable Housing Planning and Development Grants awards.

Before we present the recommendations, we think it important to give you an overview of our committee's work. You appointed our committee in July 2016. Our discussions were guided by the overarching direction in the Administrative Rules for the Construction Excise Tax Funding for Community Planning and Development Grants (CPDG), which includes the Equitable Housing Grants program. Additional guidance for the committee was provided in the Equitable Housing Grants Application Handbook, including:

- the program's goal to fund projects that will remove barriers to equitable housing development
- planning activities supported by the grant
- criteria for evaluating the applications

Our committee met two times between September and October to review the eight applications submitted by seven local governments. Staff had previously reviewed and provided feedback on letters of interest.

We were impressed with the diversity of proposals and with the range of communities that applied, and we believe this round of grants will yield important lessons for how the region responds to the current housing crisis. Some of the proposed projects will support planning activities focused on eliminating barriers to development on a specific site, leading to formal development commitments and development agreements that will result in near term on-the-ground development. Others focus on policy development and strategic planning that will eventually lead to development.

The diverse backgrounds of the committee members created very lively and thorough discussions of the strengths and weaknesses of each of the applications. Although we did not come to consensus in every case, committee members generally agreed about which projects should be recommended for funding, and how much.

## Attachment C: Equitable Housing Grants Screening Committee Recommendations to COO

### Funding Recommendations:

The total funding requested for the eight projects was \$680,936. Staff advised the committee that Metro Council had previously discussed making \$500,000 available for the project, but that the COO also planned to recommend allocating an additional \$75,000 in funding from an approved Cycle 4 Community Planning and Development Grant (CPDG) project that did not move forward to the funding allocation for the Equitable Housing Grants 2016-17 allocation. For that reason, the committee developed two sets of recommendations: one for a \$500,000 total funding package, and one for a \$575,000 total funding package, summarized below.

Our committee recommends funding for all but one of the projects: the City of Portland’s Terminal One proposal. In order to develop recommendations for a \$500,000 funding recommendation package, the committee recommended an across-the-board 13.8% cut to the seven projects recommended for funding. This approach reflects the importance and the merit of the all the projects that were recommended for funding. For the \$575,000 funding recommendations package, the committee recommended slight cuts to two of the projects: Washington County and Wilsonville.

### *Summary of Funding Requests and Recommendations for \$500,000 and \$575,000 Funding Scenarios*

<b>Project</b>	<b>Funding Request</b>	<b>Rec'd Funding @ \$500,000</b>	<b>Rec'd Funding @ \$575,000</b>
Beaverton Anti-Displacement Housing Strategy	\$100,000	\$86,207	\$100,000
Milwaukie Cottage Cluster Feasibility Analysis	\$65,000	\$56,035	\$65,000
Oregon City Equitable Housing	\$100,936	\$86,207	\$100,000
Portland Terminal One	\$100,000	\$0	\$0
Portland Equitable Housing Strategy for the Southwest Corridor	\$100,000	\$86,207	\$100,000
Tigard Southwest Corridor Affordable Housing Predevelopment Analysis	\$50,000	\$43,104	\$50,000
Washington County Affordable Housing Site Evaluation, Barriers & Solutions	\$100,000	\$86,207	\$97,500
Wilsonville Equitable Housing Strategic Plan	\$65,000	\$56,035	\$62,500
	<b>\$680,936</b>	<b>\$500,001</b>	<b>\$575,000</b>

Committee members expressed mixed reactions to the Terminal One proposal. Some committee members felt the project had strong merits. Although individual committee members did not agree on all of the merits and weaknesses of the Terminal One proposal, the committee did reach consensus on the recommendation not to recommend funding for this project, given that it ranked the lowest in the committee’s evaluation, and given staff direction regarding maximum available resources for the grant program.

*Appendix* contains a summary of committee comments, including positive comments, concerns, and suggestions for how applicants should adjust their scope of work in order to realize the intended outcomes of their projects. Not all committee members agreed with each of the positive comments or

## Attachment C: Equitable Housing Grants Screening Committee Recommendations to COO

concerns in the summary, and in a few cases, comments may reflect an individual committee member's perspective.

### Additional Comments and Suggestions for Future Funding Cycles

Our Committee also recommends the following actions to improve the Equitable Housing Grants program for future funding allocations:

- **Site specific proposals should have potential for impact that is much broader than simply achieving development on a single site.** For example, site-specific projects could be used to identify broader policy or administrative changes that could help to eliminate barriers to development; they could be catalytic in supporting overall goals for achieving the region's 2040 vision; or they could be significant in that they are addressing a critical need, such as affordable housing development.
- **Although the program is focused on "equitable housing," the application requirements and evaluation criteria could provide more specificity about the definition of "equity" in this context, and could elevate the focus on equity within the evaluation criteria.** The current description of "equity" within the evaluation criteria, as described in the Equitable Housing Grant Application Handbook, states that "Equity exists relative to the benefits and burdens of growth and change to the region's communities, and the proposed project will facilitate investments that address the needs of underserved and underrepresented groups. Applicants are encouraged to think about how their project supports efforts to 'Affirmatively Furthering Fair Housing'." However, equity is listed only under the "regional significance" criteria as one of six desired outcomes. Metro should consider making equity a separate criterion and/or providing more guidance regarding how applicants should demonstrate the use of an equity lens both in evaluating the potential outcomes of the project and/or engagement components.
- **Metro's program should encourage local strategies focused on preserving existing affordable housing.** The preservation of existing affordable housing (both regulated and non-regulated) is widely recognized as an important strategy that needs to be expanded to address our region's housing needs. Preservation is generally more cost effective than new development, and if we aren't able to preserve existing affordable housing, many affordable housing experts believe we will never be able to "build" our way out of the affordable housing crisis. The City of Beaverton's Equitable Housing Grant proposal included (along with elements focused on eliminating barriers to new development of equitable housing) a component focused on exploring strategies for the preservation of "naturally occurring" or non-regulated affordable housing—something we saw as an innovative and regionally significant approach and therefore recommended for funding. Given that Metro code states that the construction excise tax should be used "to provide funding for regional and local planning that is required to make land ready for development after its inclusion in the Urban Growth Boundary," it may be helpful for Metro to consider whether this language is still relevant for achieving the original intent of the program. From our perspective, supporting the preservation of existing affordable housing is compatible with the overall goal of achieving the six desired outcomes for the 2040 Growth Vision adopted by Metro Council.

## Attachment C: Equitable Housing Grants Screening Committee Recommendations to COO

- **The lessons learned from projects approved for funding through the 2016-17 Equitable Housing Grant program should be used to help provide more direction for future funding cycles.** The eight applications we reviewed represent a wide range of approaches, presenting an opportunity for learning about what kinds of approaches are most effective in yielding significant policy outcomes and on-the-ground development. One thing Metro could explore in future modifications of the program would be to develop a checklist of the different kinds of planning efforts (i.e., housing needs analysis, code audit, opportunity site inventory, funding/incentive analysis, etc.) local jurisdictions should undertake to identify problem statements and develop approaches to addressing them. Staff could also consider developing more prescriptive templates for effective scopes of work that would meet the funding criteria, as well as case study examples of successful projects based on the 2016-17 funding cycle. This could help eliminate some of the barriers smaller jurisdictions may face in completing the application process, which is fairly involved. Additionally, it would help ensure that the applications Metro receives encompass the kinds of activities necessary to achieve the desired outcomes of the program.
- **Require applicants to provide more specific information about deliverables and how they will be shared with Metro and other stakeholders across the region.**

We will be happy to join you in presenting all of these recommendations to the Metro Council on November 1 if you so desire.

On behalf of the members of our Equitable Housing Grants Screening Committee, we want to thank you for giving us the opportunity to participate in this process and assist Metro in funding projects that eliminate barriers to equitable housing development.

**APPENDIX (Co-Chairs Aman and Pyszka Recommendations to COO)**

**COMBINED SCREENING COMMITTEE COMMENT SUMMARY AND CONCERNS FOR 2016-17 EQUITABLE HOUSING GRANT APPLICATIONS**  
**Oct. 12, 2016**

---

**2016-17 EQUITABLE HOUSING PLANNING AND GRANT APPLICATIONS**  
**TABLE OF PROJECTS**

**PROJECTS**

City of Beaverton / Anti Displacement Strategy .....	1
City of Milwaukie / Cottage Cluster Feasibility Analysis .....	2
City of Oregon City / Oregon City Equitable Housing .....	3
City of Portland / Portland Housing Bureau / Terminal One .....	4-5
City of Portland / Portland Planning and Sustainability / Equitable Housing Strategy for the SW Corridor .....	6
City of Tigard / SW Corridor Affordable Housing Predevelopment Project.....	7
City of Wilsonville / Equitable Housing Strategic Plan .....	8
Washington County / Equitable Housing Barriers and Solutions .....	9-10

**APPENDIX (Co-Chairs Aman and Pyszka memo to COO)**

**COMBINED SCREENING COMMITTEE COMMENT SUMMARY AND CONCERNS FOR EQUITABLE HOUSING GRANTS**

**October 12, 2016**

---

<b>Applicant/Project</b> City of Beaverton / Anti Displacement Strategy	
<b>Requested Grant</b> \$100,000	<b>Recommendation options:</b> If \$575,000 in total funding: \$100,000 If \$500,000 in total funding: \$86,207
<b>Total Project Cost</b> \$116,832	<b>Financial Match:</b> n/a <b>In-kind Match:</b> \$16,832
<b>Project Description</b>	The City of Beaverton requests \$100,000 to create an Anti-Displacement Housing Strategy. The City will hire a consultant to work with the city to a) map all current unregulated affordable housing (below 80% AMI) and developable properties, and b) identify strategies the city and the housing partners can implement to preserve and/or develop new affordable housing going forward.
<b>Project Location</b>	City of Beaverton (citywide)
<b>Partners</b>	Community Housing Fund, Network for Oregon Affordable Housing (NOAH), Washington County Housing Authority

**Positive Comments**

- High regional significance due to potential to generate lessons learned; focus on preserving “naturally occurring” affordable housing is innovative
- Strong potential for partnerships with interested funders
- Strong commitment for action; city has already allocated funding for acquisition of “naturally occurring” affordable housing
- Explicit focus on anti-displacement reflects commitment to equity

**Concerns**

- Community engagement component is not as strong as other applications
- Some questions as to the project team’s capacity to manage the project; specific staff were not noted because the city was in the process of hiring for the project manager position

**Conditions for Funding**

- Verify planning staff capacity.
- Engagement strategy should specifically identify target participants, including income levels/types of residents to be engaged.
- Scope of work should include how the city will share best practices and lessons learned with interested stakeholders, including Metro, Metro Technical Advisory Committee (MTAC), peer jurisdiction staff, and other identified stakeholders.
- Scope of work should include how the city will communicate information about projects more broadly with interested regional stakeholders (e.g., project website, etc.).
- Clarify how equity lens will be applied to shape the project.

**APPENDIX (Co-Chairs Aman and Pyszka memo to COO)**

**COMBINED SCREENING COMMITTEE COMMENT SUMMARY AND CONCERNS FOR EQUITABLE HOUSING GRANTS**

**October 12, 2016**

<b>Applicant/Project</b> City of Milwaukie / Cottage Cluster Feasibility Analysis	
<b>Requested Grant</b> \$65,000	<b>Recommendation options:</b> If \$575,000 in total funding: \$65,000 If \$500,000 in total funding: \$56,035
<b>Total Project Cost</b> \$77,000	<b>Financial Match:</b> n/a <b>In-kind Match:</b> \$12,500
<b>Project Description</b>	The City of Milwaukie requests \$65,000 to conduct a feasibility analysis and preliminary site design work for four sites to examine their potential for a cottage cluster development that can provide equitable housing opportunities to a variety of groups identified by community partners, including affordable housing, workforce housing, senior housing, and special needs housing.
<b>Project Location</b>	Four sites located within the City of Milwaukie’s medium density residential zones (r-2, R-2.5, and R-3). Exact sites to be determined as part of the proposal.
<b>Partners</b>	Northwest Housing Alternatives, Providence Milwaukie Hospital, and Clackamas County Health, Housing and Human Services

**Positive Comments**

- Potential for regional significance given ability to generate lessons learned regarding cottage clusters
- Strong potential for partnerships

**Concerns**

- Code barriers to cottage clusters need to be addressed before development could move forward.
- The city notes in their application that their initial outreach was not successful in identifying any interested property owners.
- The scope is more narrow than some other projects.

**Conditions for Funding**

- City should confirm property owner interest before moving forward with a feasibility analysis on any site.
- Engagement strategy should specifically identify target participants, including income levels/types of residents to be engaged.
- Scope of work should include how the city will share best practices and lessons learned with interested stakeholders, including Metro, Metro Technical Advisory Committee, staff of other jurisdiction, and other identified stakeholders.
- Scope of work should include for how the city will communicate information about projects more broadly with interested regional stakeholders (e.g., project website, etc.).
- Clarify how equity lens will be applied to shape the project.



**APPENDIX (Co-Chairs Aman and Pyszka memo to COO)**

**COMBINED SCREENING COMMITTEE COMMENT SUMMARY AND CONCERNS FOR EQUITABLE HOUSING GRANTS**

**October 12, 2016**

<b>Applicant/Project</b> City of Oregon City / Equitable Housing	
<b>Requested Grant</b> \$100,936	<b>Recommendation options:</b> \$575,000 in total funding: \$100,000 \$500,000 in total funding: \$86,207
<b>Total Project Cost</b> \$124,650	<b>Financial Match:</b> n/a <b>In-kind Match:</b> \$23,714
<b>Project Description</b>	The City of Oregon City requests \$100,936 to work with a network of local partners to evaluate the process for constructing equitable housing and remove barriers to development as well as implement incentives to facilitate and encourage new equitable housing in Oregon City.
<b>Project Location</b>	The project area is city-wide, although emphasis will be placed on specific development areas and zones through the analysis of site background information and mapping.
<b>Partners</b>	Clackamas County Health, Housing and Human Services; Northwest Housing Alternatives, Citizens Involvement Committee, Main Street Oregon City, Oregon City Chamber of Commerce, Oregon City Business Alliance

**Positive Comments**

- Strong potential for leverage given other economic development initiatives underway in Oregon City.
- Good combination of breadth and specificity.
- Proposed project addresses a very real need to eliminate code barriers to development, so potential for tangible impact is high.

**Concerns**

- Description of equity components of the grant is vague.
- Proposed “partners” and public involvement plan consists mostly of technical advisors; not enough outreach to disadvantaged groups or collaboration with community-based organizations.
- Important to have clearly defined outcomes; unclear whether and how the proposed scope would lead to ongoing activity.

**Conditions for Funding**

- Clarify roles of partner organizations beyond serving in a technical advisory capacity.
- Engagement strategy should specifically identify target participants, including income levels/types of residents to be engaged.
- Scope of work should include how the city will share best practices and lessons learned with interested stakeholders, including Metro, Metro Technical Advisory Committee, staff of other jurisdiction, and other identified stakeholders.
- Scope of work should include how the city will communicate information about projects more broadly with interested regional stakeholders (e.g., project website, etc.).
- Clarify how equity lens will be applied to shape the project.

**APPENDIX (Co-Chairs Aman and Pyszka memo to COO)**

**COMBINED SCREENING COMMITTEE COMMENT SUMMARY AND CONCERNS FOR EQUITABLE HOUSING GRANTS**

**October 12, 2016**

---

- Specify income-based performance measures related to number of units envisioned to be created.

**APPENDIX (Co-Chairs Aman and Pyszka memo to COO)**

**COMBINED SCREENING COMMITTEE COMMENT SUMMARY AND CONCERNS FOR EQUITABLE HOUSING GRANTS**

**October 12, 2016**

<b>Applicant/Project</b> City of Portland / Terminal One	
<b>Requested Grant</b> \$100,000	<b>Recommendation options:</b> \$575,000 in total funding: \$0 \$500,000 in total funding: \$0
<b>Total Project Cost</b> \$265,000	<b>Financial Match:</b> n/a <b>In-kind Match:</b> \$165,000
<b>Project Description</b>	PHB requests \$100,000 for a feasibility assessment of Terminal 1 related to the proposed Oregon Trail of Hope concept, a multi-service center providing shelter, services, and housing for people experiencing homelessness. The 12-month project will fund a consultant to conduct analysis of the site and produce outcomes in phases of: Visioning, Feasibility Analysis, and Master Plan development.
<b>Project Location</b>	Terminal 1 (2400 NW Front Avenue, Portland, OR 97209) is 14.48 acres with a 96,000 sq. foot warehouse in downtown Portland on the Willamette River.
<b>Partners</b>	Joint Office of Homeless Services (Multnomah County), Oregon Trail of Hope (nonprofit)

*Note: Individual committee members had very different opinions about this proposal. Many of the comments summarized below do not reflect a majority perspective, and some may reflect individual committee members' perspectives.*

**Positive Comments**

- Homelessness is a region-wide issue, and Portland has taken on a disproportionate burden. There is potential for this concept to relieve pressure on other parts of the region by siting a shelter in a location with higher real estate values rather than in an area with lower income areas (e.g., East Portland).
- There is a huge shortage of shelter beds and the overall concept is worthy of studying.
- Project includes strong matching funds and partner support.
- The proposal is innovative in that it seeks to use an integrated, comprehensive approach, modeled on a national best practice.

**Concerns**

- Concerns about the legal and political viability of the site, due to recent state land use decisions clearly prohibiting use of industrial land for mass shelters and anticipated political challenges of a zoning change on the Terminal One site.
- Studying a homeless shelter does not fit with the grant program criteria or program goals.
- Concept could equate to “warehousing” approach; placing people on an industrial site that isn’t integrated into communities and neighborhoods.

**COMBINED SCREENING COMMITTEE COMMENT SUMMARY AND CONCERNS FOR EQUITABLE HOUSING GRANTS**  
**October 12, 2016**

---

- Unclear how this proposal fits with Metro's role of shaping a long-term vision of integrated land use and transportation.

**Conditions for Funding**

- Funding not recommended

**Additional Comments:**

- The committee recommends that the applicant consider the following potential changes to the scope for future grant cycles:
  - Conduct a broader analysis of zoning barriers to shelter siting
  - Conduct a broader analysis of the proposed homeless campus concept, including criteria for identifying appropriate sites

**APPENDIX (Co-Chairs Aman and Pyszka memo to COO)**

**COMBINED SCREENING COMMITTEE COMMENT SUMMARY AND CONCERNS FOR EQUITABLE HOUSING GRANTS**

**October 12, 2016**

<b>Applicant/Project</b> City of Portland / Equitable Housing Strategy for the Southwest Corridor	
<b>Requested Grant</b> \$100,000	<b>Recommendation options:</b> \$575,000 in total funding: \$100,000 \$500,000 in total funding: \$86,207
<b>Total Project Cost</b> \$120,000	<b>Financial Match:</b> n/a <b>In-kind Match:</b> \$20,000
<b>Project Description</b>	The City of Portland requests \$100,000 to set a target for affordable housing preservation and production as part of the Southwest Corridor transit project, estimate potential funding sources and funding gap to meet targets and build a community coalition to support inclusion of affordable housing as part of Southwest Corridor transit investment.
<b>Project Location</b>	One-half mile buffer around Barbur Blvd from the Barbur/Naito South Portland District to downtown Tigard via the Tigard Triangle
<b>Partners</b>	City of Tigard will serve as primary project partner. Additional collaborators include: Community Housing Fund, Community Partners for Affordable Housing (CPAH), Organizing People/Activating Leaders (OPAL), and the Washington County Housing Authority

**Positive Comments**

- Creating an affordable housing strategy in advance of a major regional infrastructure investment is an innovative approach with the potential to generate valuable lessons for the rest of the region
- Strong regional significance, including inter-jurisdictional collaboration (partnership with Tigard)
- Strong public involvement and partnerships with nonprofits

**Concerns**

- Unclear from the proposal what income levels would be served by the project
- Unclear from the proposal what kinds of implementation tools and tangible outcomes are most likely

**Conditions for Funding**

- Engagement strategy should specifically identify target participants, including income levels/types of residents to be engaged.
- Scope of work should include how the city will share best practices and lessons learned with interested stakeholders, including Metro, Metro Technical Advisory Committee, staff of other jurisdiction, and other identified stakeholders.
- Scope of work should include how the city will communicate information about projects more broadly with interested regional stakeholders (e.g., project website, etc.).

**APPENDIX (Co-Chairs Aman and Pyszka memo to COO)**

**COMBINED SCREENING COMMITTEE COMMENT SUMMARY AND CONCERNS FOR EQUITABLE HOUSING GRANTS**

**October 12, 2016**

---

- Clarify how equity lens will be applied to shape the project.
- Specify income-based performance measures related to number of units envisioned to be created or preserved.

**APPENDIX (Co-Chairs Aman and Pyszka memo to COO)**

**COMBINED SCREENING COMMITTEE COMMENT SUMMARY AND CONCERNS FOR EQUITABLE HOUSING GRANTS**

**October 12, 2016**

<b>Applicant/Project</b> City of Tigard / SW Corridor Affordable Housing Predevelopment Project	
<b>Requested Grant</b> \$50,000	<b>Recommendation options:</b> \$575,000 in total funding: \$50,000 \$500,000 in total funding: \$43,104
<b>Total Project Cost</b> \$73,080	<b>Financial Match:</b> n/a <b>In-kind Match:</b> \$23,080
<b>Project Description</b>	The City of Tigard requests \$50,000 for the SW Corridor Affordable Housing Predevelopment project, which will mitigate the effects of potential market displacement of affordable housing residents in Tigard’s Town Center by: identifying opportunity sites for housing relocation and preservation; developing a funding analysis to support an anti-displacement strategy; and engaging with affordable housing residents on equitable solutions.
<b>Project Location</b>	Tigard Town Center (Downtown Tigard and Tigard Triangle)
<b>Partners</b>	Community Partners for Affordable Housing (CPAH), 1,000 Friends of Oregon, Community Housing Fund, Unite Oregon, City of Portland

**Positive Comments**

- Creating an affordable housing strategy in advance of a major regional infrastructure investment is an innovative approach with the potential to generate valuable lessons for the rest of the region
- Strong regional significance, including inter-jurisdictional collaboration (partnership with Portland)
- Strong nonprofit partners

**Concerns**

- Unclear from the proposal what income levels would be served by the project

**Conditions for Funding**

- Engagement strategy should specifically identify target participants, including income levels/types of residents to be engaged.
- Scope of work should include how the city will share best practices and lessons learned with interested stakeholders, including Metro, Metro Technical Advisory Committee, staff of other jurisdiction, and other identified stakeholders.
- Scope of work should include how the city will communicate information about projects more broadly with interested regional stakeholders (e.g., project website, etc.).
- Performance measures should specify income-based performance measures related to number of units created or preserved.
- Clarify how equity lens will be applied to shape the project.

**APPENDIX (Co-Chairs Aman and Pyszka memo to COO)**

**COMBINED SCREENING COMMITTEE COMMENT SUMMARY AND CONCERNS FOR EQUITABLE HOUSING GRANTS**

**October 12, 2016**

<b>Applicant/Project</b> City of Wilsonville / Equitable Housing Strategic Plan	
<b>Requested Grant</b> \$65,000	<b>Recommendation options:</b> \$575,000 in total funding: \$63,500 \$500,000 in total funding: \$56,035
<b>Total Project Cost</b> \$76,235	<b>Financial Match: n/a</b> <b>In-kind Match: \$11,235</b>
<b>Project Description</b>	Wilsonville is proposing to research, develop, adopt, and begin implementation of an Equitable Housing Strategic Plan that identifies and prioritizes policies and programs for the City to implement that address current needs and gaps in Wilsonville's housing market.
<b>Project Location</b>	This project encompasses all of the City of Wilsonville with a special focus on the Frog Pond and Town Center areas.
<b>Partners</b>	n/a

**Positive Comments**

- High opportunity area with strong potential for regionally significant impact.

**Concerns**

- Some of the research components seem duplicative of Metro's Equitable Housing report, Metro's housing needs analysis, and the City's 2013 housing needs analysis.
- Value of the proposed housing summit and resource fair is unclear; engaging employers might be a more impactful approach.
- Description of equity components of the grant is vague; proposal indicates openness to different housing options, but they are not necessarily affordable.

**Conditions for Funding**

- Engagement strategy should specifically identify collaborators, including nonprofits and employers.
- Engagement strategy should specifically identify target participants, including income levels/types of residents to be engaged.
- Scope of work should include how the city will share best practices and lessons learned with interested stakeholders, including Metro, Metro Technical Advisory Committee, staff of other jurisdiction, and other identified stakeholders.
- Scope of work should include how the city will communicate information about projects more broadly with interested regional stakeholders (e.g., project website, etc.).
- Clarify how equity lens will be applied to shape the project.
- Clarify how market research will build on previous analyses, and how it will be targeted toward evaluating feasibility and impact of specific investment and policy tools.



**APPENDIX (Co-Chairs Aman and Pyszka memo to COO)**

**COMBINED SCREENING COMMITTEE COMMENT SUMMARY AND CONCERNS FOR EQUITABLE HOUSING GRANTS**

**October 12, 2016**

<b>Applicant/Project</b> Washington County / Equitable Housing Barriers and Solutions	
<b>Requested Grant</b> \$100,000	<b>Recommendation options:</b> \$575,000 in total funding: \$97,500 \$500,000 in total funding: \$86,207
<b>Total Project Cost</b> \$150,000	<b>Financial Match:</b> n/a <b>In-kind Match:</b> \$50,000
<b>Project Description</b>	Washington County requests \$100,000 to identify 3-5 potential affordable housing development (AHD) sites, evaluate AHD site suitability and key barriers through code and financial feasibility analysis, and then draft and evaluate potential solutions. It is expected to lead to community plan and/or code amendments, and pre-development work on at least one site.
<b>Project Location</b>	Potential affordable housing development sites within Washington County's Metro-designated Corridors, Centers, State Areas or Main Streets, including County-owned property at Cornell Road and Murray Boulevard.
<b>Partners</b>	Community Partners for Affordable Housing (selected developer for the County-owned Cornell-Murray property)

**Positive Comments**

- Strong partnerships with nonprofits
- Strong potential to link site-specific projects to more flexible regulations that eliminate barriers to equitable housing development

**Concerns**

- Proposed budget allocation for staff is higher than other applications
- Description of equity components of the grant is vague, and the proposal does not include a plan for how to reach out to disadvantaged populations.
- Only one of five sites is identified.
- Application does not describe the project team.
- Application does not provide examples of potential implementation strategies.

**Conditions for Funding**

- Clarify who serve on the project team.
- Clarify potential implementation strategies to be explored and how the scope will address them.
- Engagement strategy should specifically identify target participants, including income levels/types of residents to be engaged.
- Scope of work should include how the city will share best practices and lessons learned with interested stakeholders, including Metro, Metro Technical Advisory Committee, staff of other jurisdiction, and other identified stakeholders.
- Scope of work should include how the city will communicate information about projects more broadly with interested regional stakeholders (e.g., project website, etc.).
- Clarify how equity lens will be applied to shape the project.

**APPENDIX (Co-Chairs Aman and Pyszka memo to COO)**

**COMBINED SCREENING COMMITTEE COMMENT SUMMARY AND CONCERNS FOR EQUITABLE HOUSING GRANTS**

**October 12, 2016**

---

- Specify income-based performance measures related to number of units envisioned to be created or preserved.

STAFF REPORT  
IN CONSIDERATION OF RESOLUTION NO. 16-4753  
FOR THE PURPOSE OF APPROVING FY 2016-17 FUNDING FOR EQUITABLE HOUSING PLANNING AND  
DEVELOPMENT GRANTS FUNDED WITH CONSTRUCTION EXCISE TAX

---

Date: **Draft** 10/20/2016

Prepared by: Emily Lieb, 503-797-1921  
and Gerry Uba, 503-797-1737

**BACKGROUND**

In September 2015, Metro’s Chief Operating Officer (COO) presented her recommendations for Cycle 4 of the Community Planning and Development Grants (CPDG). The recommendations included information about the proposed Cycle 4 award left an excess of \$230,000 for the COO and Metro Council to utilize as they see fit.

At the January 7, 2016 Council work session, the Council expressed interest in further understanding how to expend the unallocated CPDG Cycle 4 fund. After consultation with the Office of the Metro Attorney and guidance from the Equitable Housing Initiative Work Group, the COO proposed at the February 16, 2016 Council work session that the unallocated Cycle 4 CPDG fund for use in creating housing planning and development grants. The COO also informed Council that additional construction excise collections could be used to boost funding for housing planning and development grants to ensure that the program is able to generate benefits across the region. She recommended an initial budget of \$500,000.

The Metro Council decided to create the Equitable Housing Planning and Development Grants (“Equitable Housing Grants”) program as a subset of the CPDG program to use additional, unallocated funds to inspire and foster innovative local planning projects that support the creation of equitable housing – defined as *diverse, quality, physically accessible, affordable housing choices with access to opportunities, services, and amenities*.

The Equitable Housing Grants are intended to specifically support local governments and their partners in eliminating barriers to equitable housing development—while also helping to build a body of housing-related projects that support regional innovation and knowledge sharing.

In 2015, Metro’s Equitable Housing Initiative led a yearlong research and engagement process that culminated in the creation of a collaborative framework for equitable housing and the convening of a regional equitable housing leadership summit. More information is available at [oregonmetro.gov/equitable-housing](http://oregonmetro.gov/equitable-housing).

**ADMINISTRATIVE RULES**

Per Council direction, staff developed the Equitable Housing Grants program to conform to the revised Administrative Rules for Construction Excise Tax for CPDG adopted by Metro Council in March 2015 (Resolution 15-4615) and implemented in Cycle 4 of the Community Planning and Development Grants. The 2015 update to the Administrative Rules adjusted the goal of the CPDG program, defined types of eligible projects, and revised the criteria for evaluating grant applications, reflecting recommendations

developed by Metro Technical Advisory Committee (MTAC) and recommended by Metro Policy Advisory Committee (MPAC) to Metro Council.

### **Eligible Projects**

Based on the CPDG Administrative Rules and with input from CPDG staff and former CPDG screening committee members, staff identified two categories of projects that would be eligible for funding:

- 1) Opportunity site identification and analysis: Conduct predevelopment work on potential affordable or mixed-income housing development sites in centers and corridors (as identified in Title 6 of Metro’s Urban Growth Management Functional Plan).

Examples of potential projects:

- Site identification
- Environmental analysis and brownfield site assessments
- Financial feasibility analysis and funding strategy development
- Parking analysis
- Schematic design

- 2) Policy evaluation and implementation: Conduct evaluation and develop tools to support modification of local code, zoning or permitting processes, or create incentives that eliminate barriers to equitable housing development.

Examples of potential projects:

- Zoning/code changes to eliminate barriers to and/or create incentives for the development of “missing middle” housing and creative infill housing, such as accessory dwelling units or cottage clusters
- Evaluation and implementation of a regulatory or incentive program, such as Vertical Housing Tax Credits, tax exemptions for affordable units, or inclusionary zoning
- Implementation of streamlined permitting for affordable housing projects

### **Evaluation Criteria**

Consistent with previous recommendations from evaluations of applications for the CPDG program, Equitable Housing Grants applications were evaluated on their ability to achieve the goals of the Regional Framework Plan, which identifies regional policies to implement the 2040 Growth Concept.

Specifically, projects were evaluated on the following criteria:

- Expected development outcome
- Regional significance, including how well the project addresses the needs of underrepresented or underserved groups (equity)
- Ability to support vibrant Centers, Corridors, and Main Streets
- Use of best practices
- Leveraging past or future public and private investments, such as transit projects
- Available matching funds
- Potential to absorb projected growth
- Public involvement

- Commitment for action by a governing body
- Capacity of applicant

## **SOLICITATION AND EVALUATION OF APPLICATIONS**

### **Pre-Application Meeting**

On May 13, 2016, Metro held a pre-application meeting to explain the grant process and answer questions from local government representatives and interested community partners. The meeting notice went out to Metro’s Equitable Housing Initiative interested parties list, which includes over 600 people spanning government, developers, financial institutions, advocacy groups, community-based organizations, and more.

Approximately 35 people attended the pre-application meeting, including several nonprofit and community-based organizations interested in partnering with a local government on a proposal. The meeting including time for attendees to ask staff questions about the process, as well as time for networking for applicants to connect with non-governmental attendees interested in exploring partnerships.

### **Letters of Interest**

Seven local governments submitted eight letters of interest (LOI) by the June 8 deadline. Metro staff reviewed the proposals and provided comments intended to ensure that projects met the criteria necessary to be eligible for funding, and to help strengthen the competitiveness of full applications. In the case of one LOI, which was focused on equitable leasing practices, staff provided feedback that the project did not meet the eligibility of the program as set forth by Metro’s code and the Administrative Rules for the CPDG program, because it did not include any components related to “planning that is required to make land ready for development.”

### **Applications**

Seven local governments submitted eight applications by the Aug. 12 deadline. In total, the eight applications requested \$680,936 ([Attachment 1](#)).

The proposed projects will support planning activities that will lead to such outcomes as eliminating barriers to housing development on a specific site and changes to zoning, permitting, and incentives to support equitable housing at the jurisdiction scale. Applications were required to address:

- Locations of proposed projects
- Role of partnerships
- Potential for innovation/best practices
- Range of different types of projects
- Regional significance – especially equity
- Total financial and in-kind matches

### **Grants Screening Committee**

As directed in the Administrative Rules ([Attachment 2](#)), Metro's Chief Operating Officer appointed six individuals with experience in a variety of fields relating to economic development and planning to the Equitable Housing Grants Screening Committee. In September and October, the Screening Committee met two times to evaluate the applications and develop funding recommendations. In addition, members were invited to an optional meeting to provide feedback on the criteria and evaluation process to inform program evaluation and future grant cycles.

As the Screening Committee was evaluating the applications, Multnomah County relinquished its \$75,000 CPDG grant for "Moving to Permanent Housing" planning project. Staff informed the Screening Committee that the COO has directed them to present recommendations for two funding options, one for \$500,000 and the second for \$575,000.

## RECOMMENDATIONS

The Screening Committee submitted its recommendations to the Metro COO on Oct. 13, 2016.

Description of recommendations:

- Recommended funding package at \$500,000
- Recommended funding package at \$575,000
- Recommended funding conditions and performance measures

Additional committee recommendations

- Recommendations for ongoing program modifications

The COO sent her own recommendations to the Metro Council along with the recommendations of the Screening Committee. The COO's recommendations reflect the Screening Committee recommendations with a few exceptions.

The COO's recommendations include some additional funding conditions to be fulfilled by grant recipients, shown in [Exhibit A](#) to this resolution. These conditions are intended to ensure that the projects are successful and meet the objectives of the grant program.

Intergovernmental agreements (IGAs) between Metro and grantees will be negotiated by staff after the Metro Council approves the grant awards. Additional conditions related to administration of the grant program may be included in the IGA. These could include:

- grant payment procedures
- eligible expenses
- documentation related to implementation of tasks involved in the projects
- maintenance of project records
- audits, inspections and retention of records
- encouragement to seek out local minority-owned, women-owned and emerging small businesses for professional services.

## ANALYSIS/INFORMATION

### 1. Known Opposition

There is no known opposition to the proposed grant allocation amounts, except potentially from any or all of the grant applicants who will not be receiving 2016-17 Equitable Housing Grant Funding.

**2. Legal Antecedents**

Ordinance 06-1115, "Creating a New Metro Code Chapter 7.04 Establishing a Construction Excise Tax" was adopted on March 23, 2006; Ordinance 09-1220, "Extending the Metro Construction Excise Tax and Amending Metro Code Chapter 7.04" was adopted on June 11, 2009; Ordinance No. 14-1328, "Extending the Metro Construction Excise Tax for Community Planning and Development Grants" was adopted June 19, 2014; Resolution 15-4615, "Approving Amended Construction Excise Tax Administrative Rules proposed by the Chief Operating Officer for the Community Planning and Development Grants Program" was adopted on March 19, 2015.

**3. Anticipated Effects**

This Resolution designates Equitable Housing Grant Awards funded with the construction excise tax subject to receipt of construction excise tax funds.

**4. Budget Impacts**

The Proposed FY 2015-2016 budget includes resources for staff in the Planning and Development Department to work on this project. The budget contains sufficient funds to produce and disseminate progress updates for the grant projects to stakeholders and other residents of the region. These updates will include information about how the grants are supporting local communities and the region to remove barriers to development and put local plans into action.

**RECOMMENDED ACTION**

The Chief Operating Officer recommends adoption of Resolution No. 16-4753.

**ATTACHMENT 1 (to Staff Report)**

**Applications Submitted by Local Governments for Equitable Housing Planning and Development Grants**

<b>Applicant</b>	<b>Project Name</b>	<b>Project Description</b>	<b>Amount Requested</b>	<b>Total Project Cost</b>	<b>Metro District</b>
City of Beaverton	Anti-displacement housing strategy	The City of Beaverton requests \$100,000 to create an Anti-Displacement Housing Strategy. The City will hire a consultant to work with the city to a) map all current unregulated affordable housing (below 80% AMI) and developable properties, and b) identify strategies the city and the housing partners can implement to preserve and/or develop new affordable housing going forward.	\$100,000	\$116,832	3,4
City of Milwaukie	Cottage Cluster Feasibility Analysis	The City of Milwaukie requests \$65,000 to conduct a feasibility analysis and preliminary site design work for four sites to examine their potential for a cottage cluster development that can provide equitable housing opportunities to a variety of groups identified by community partners, including affordable housing, workforce housing, senior housing, and special needs housing.	\$65,000	\$77,500	2
City of Oregon City	Oregon City Equitable Housing	The City of Oregon City requests \$100,936 to work with a network of local partners to evaluate the process for constructing equitable housing and remove barriers to development as well as implement incentives to facilitate and encourage new equitable housing in in Oregon City.	\$100,936	\$124,650	2
City of Portland / Portland Housing Bureau	Feasibility Assessment of Terminal 1	PHB requests \$100,000 for a feasibility assessment of Terminal 1 related to the proposed Oregon Trail of Hope concept, a multi-service center providing shelter, services, and housing for people experiencing homelessness. The 12-month project will fund a consultant to conduct analysis of the site and produce outcomes in phases of: Visioning, Feasibility Analysis, and Master Plan development.	\$100,000	\$265,000	5
City of Portland	Equitable housing strategy for the SW Corridor	The City of Portland requests \$100,000 to set a target for affordable housing preservation and production as part of the Southwest Corridor transit project, estimate potential funding sources and funding gap to meet targets and build a community coalition to support inclusion of affordable housing as part of Southwest Corridor transit investment.	\$100,000	\$120,000	5,6
City of Tigard	SW Corridor Affordable Housing Predevelopment Project	The City of Tigard requests \$50,000 for the SW Corridor Affordable Housing Predevelopment project, which will mitigate the effects of potential market displacement of affordable housing residents in Tigard's Town Center by: identifying opportunity sites for housing relocation and preservation; developing a funding analysis to support an anti-displacement strategy; and engaging with affordable housing residents on equitable solutions.	\$50,000	\$73,080	3
City of Wilsonville	Equitable Housing Strategic Plan	The City of Wilsonville requests \$65,000 to research, develop, adopt, and begin implementation of an Equitable Housing Strategic Plan that identifies and prioritizes policies and programs for the City to implement that address current needs and gaps in Wilsonville's housing market.	\$65,000	\$76,235	3
Washington County	Equitable Housing Barriers and Solutions	Washington County requests \$100,000 to identify 3-5 potential affordable housing development (AHD) sites, evaluate AHD site suitability and key barriers through code and financial feasibility analysis, and then draft and evaluate potential solutions. It is expected to lead to community plan and/or code amendments, and pre-development work on at least one site.	\$100,000	\$150,000	3,4
			<b>\$680,936</b>	<b>\$1,003,297</b>	



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

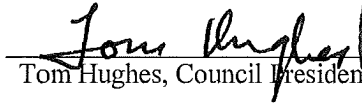
WHEREAS, the Metro Council finds that the amendments to the Administrative Rules proposed by the Metro COO and recommended for approval by MPAC are consistent with the 2014 CET Ordinance and Metro Code Chapter 7.04, and will improve the process for implementing the CET and CPDG programs; now therefore

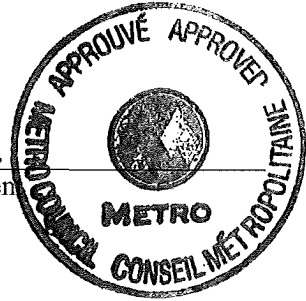
THE METRO COUNCIL RESOLVES AS FOLLOWS:

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

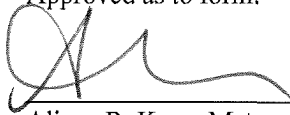
2. The Metro COO is directed to promulgate the amended Administrative Rules consistent with Chapter 7.04 of the Metro Code.

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 30<sup>th</sup> of the month following the quarter (or month) ending. Quarters end on September 30, December 31, March 31 and June 30 of each year. CET remittance and the CET Report shall be sent to Metro, attn Construction Excise Tax Accounting Specialist, 600 NE Grand, Portland, Oregon 97232.
  3. Remuneration to Local Government for Collecting CET. As consideration for collecting the CET, each local government collecting the CET shall retain no more than five percent (5%) of the tax collected by that local government. This payment is intended to be a reimbursement of costs incurred. Prior to submitting the CET to Metro, the local government shall deduct the remuneration agreed upon directly from the collected tax, and the amounts deducted and retained shall be identified on the report submitted to Metro.
  4. Metro Administrative Fee. To partially reimburse Metro for its costs in implementing and administering the CET program, Metro will retain 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](mailto: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 15<sup>th</sup>, November 5<sup>th</sup>, November 19<sup>th</sup>, and December 3<sup>rd</sup>) 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**

	<b>Position</b>	<b>Member</b>	<b>Alternate</b>
	<b>Citizens:</b>		
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
	<b>Cities</b>		
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 <sup>nd</sup> Largest City in Clackamas County: Oregon City	Tony Konkol	Pete Walter
9.	2 <sup>nd</sup> 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
	<b>Counties</b>		
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
	<b>State Agencies</b>		
18.	ODOT	Kirsten Pennington	Lidwien Rahman Lainie Smith
19.	DLCD	Jennifer Donnelly	Anne Debbaut
	<b>Service Providers</b>		
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
	<b>Private Economic Development Association</b>		
26.	Private Economic Development Organizations	Darci Rudzinski, EMEA, CCBA, WEA & CCBA	Vacant
	<b>Public Economic Development Association</b>		
27.	Public Economic Development Organizations	Eric Underwood, Oregon City	Jamie Johnk, Clackamas County
	<b>Other Organizations</b>		
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**

	<b>Position</b>	<b>Member</b>	<b>Alternate(s)</b>
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 <sup>nd</sup> Largest City in Clackamas County: Oregon City	Tony Konkol	Pete Walter
9.	2 <sup>nd</sup> 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 30<sup>th</sup> of the month following the quarter (or month) ending. Quarters end on September 30, December 31, March 31 and June 30 of each year. CET remittance and the CET Report shall be sent to Metro, attn Construction Excise Tax Accounting Specialist, 600 NE Grand, Portland, Oregon 97232.
  3. Remuneration to Local Government for Collecting CET. As consideration for collecting the CET, each local government collecting the CET shall retain no more than five percent (5%) of the tax collected by that local government. This payment is intended to be a reimbursement of costs incurred. Prior to submitting the CET to Metro, the local government shall deduct the remuneration agreed upon directly from the collected tax, and the amounts deducted and retained shall be identified on the report submitted to Metro.
  4. Metro Administrative Fee. To partially reimburse Metro for its costs in implementing and administering the CET program, Metro will retain ~~two and a half~~ 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 CPDG 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~~ 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 ~~CET Grant~~ CPDG 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~~ CPDG ~~grant~~ funds, each Grant Applicant that anticipates requesting ~~CET grant~~ CPDG 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~~ CPDG 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~~ CPDG 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 30<sup>th</sup> of the month following the quarter (or month) ending. Quarters end on September 30, December 31, March 31 and June 30 of each year. CET remittance and the CET Report shall be sent to Metro, attn Construction Excise Tax Accounting Specialist, 600 NE Grand, Portland, Oregon 97232.
  3. Remuneration to Local Government for Collecting CET. As consideration for collecting the CET, each local government collecting the CET shall retain no more than five percent (5%) of the tax collected by that local government. This payment is intended to be a reimbursement of costs incurred. Prior to submitting the CET to Metro, the local government shall deduct the remuneration agreed upon directly from the collected tax, and the amounts deducted and retained shall be identified on the report submitted to Metro.
  4. Metro Administrative Fee. To partially reimburse Metro for its costs in implementing and administering the CET program, Metro will retain 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 CPGD 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 CPGD Screening 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

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.

Materials following this page were distributed at the meeting.

COUNCIL INITIATIVES WORKSHEET  
NOVEMBER 3, 2016 RETREAT

<u>AREA OF CHANGE</u> <u>5 - 20 Years</u>	<u>IMPACT ON REGION</u> <u>3 - 5 Years</u>	<u>COUNCIL INITIATIVE</u> <u>IN RESPONSE</u> <u>0 - 36 Months</u>
<u>SOCIAL</u>		
<u>ENVIRONMENTAL</u>		
<u>ECONOMIC</u>		
<u>TECHNOLOGICAL</u>		





Metro



# Regional Equitable Housing Solutions

Preliminary Staff Assessment of Policy, Funding, and Investment Strategies

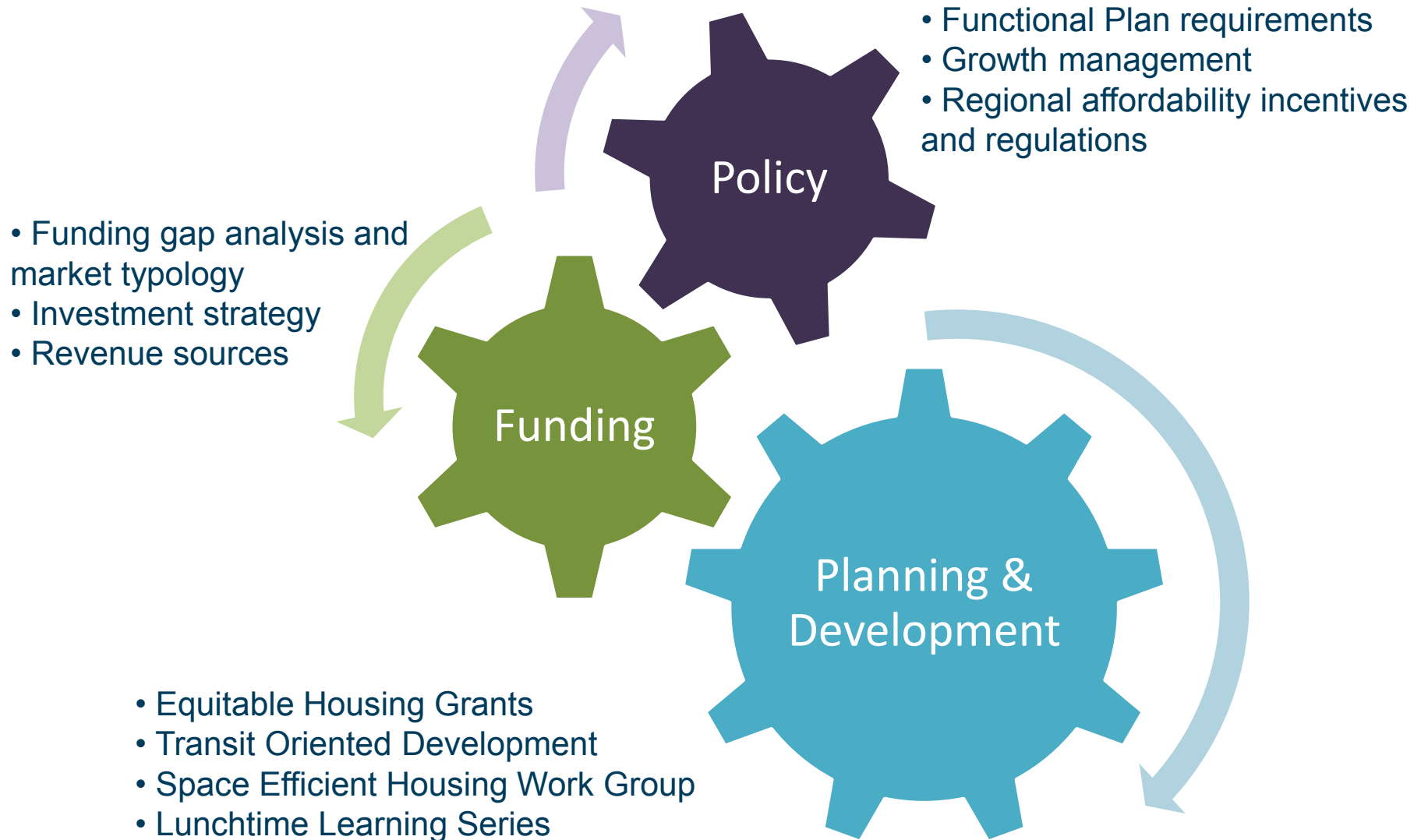
November 1, 2016 Work Session

# Goals for today's discussion

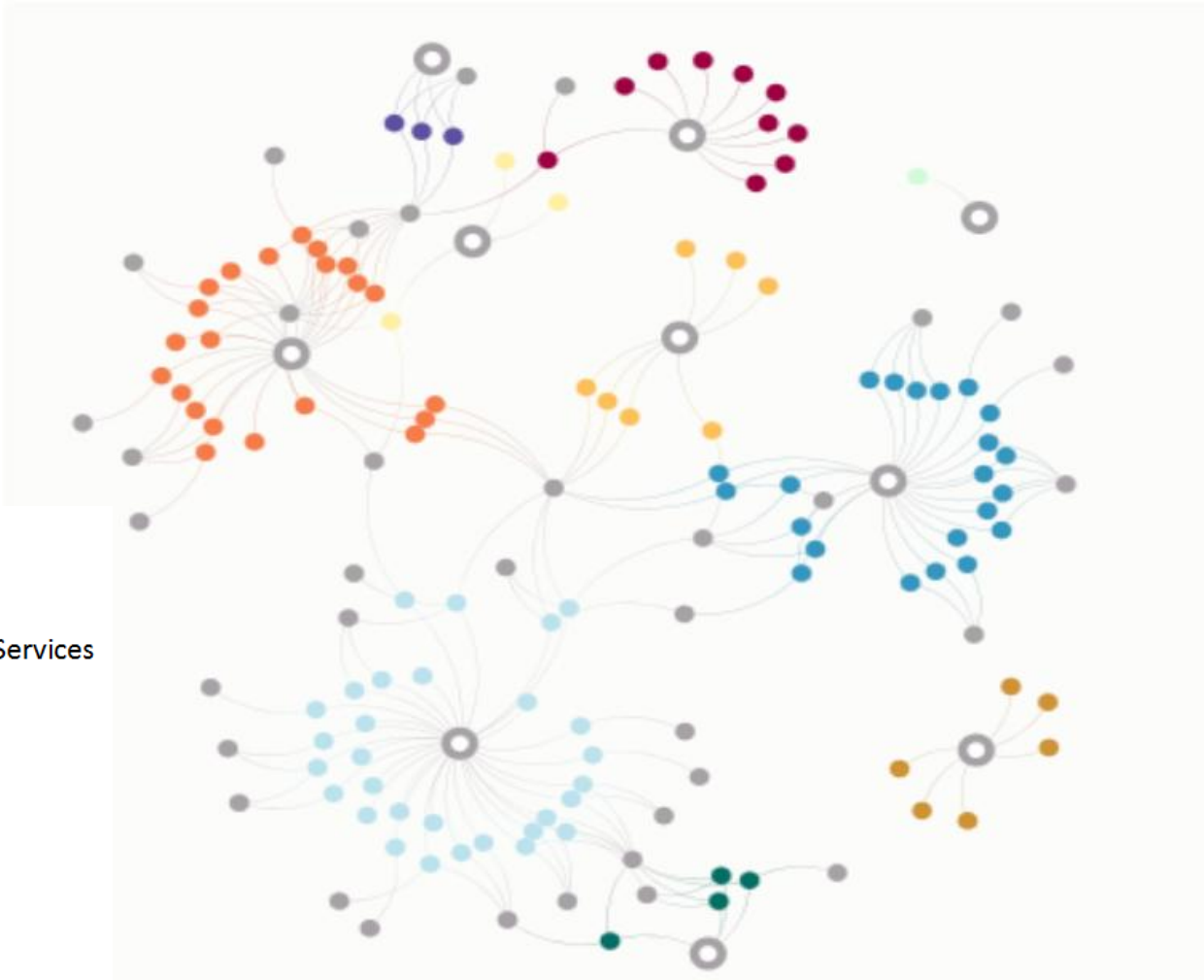
- Share preliminary staff assessment of investment and policy tools
- Seek Council feedback regarding overall direction of investment and policy opportunity analysis



# Addressing the region's housing needs



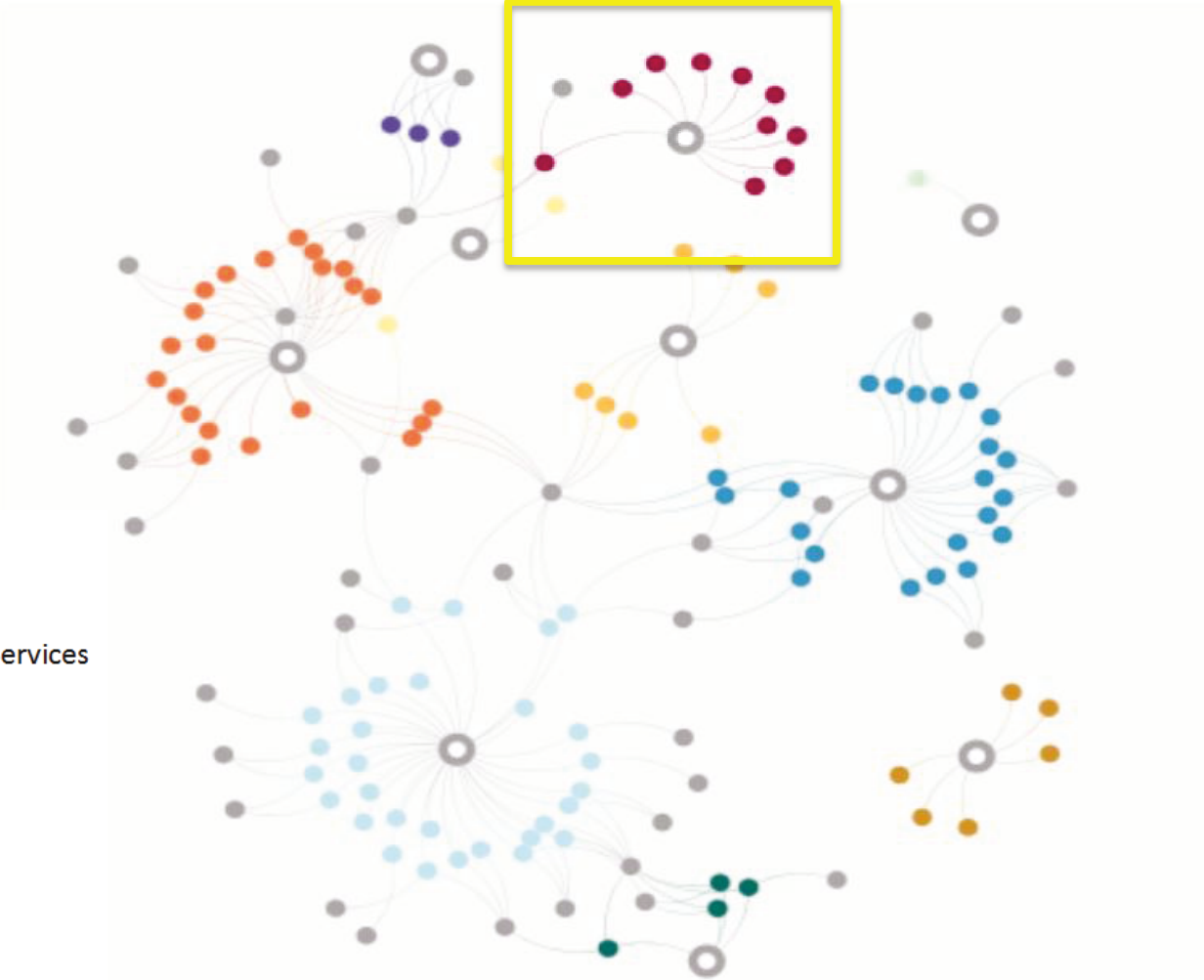
# Where does Metro fit in the equitable housing ecosystem?



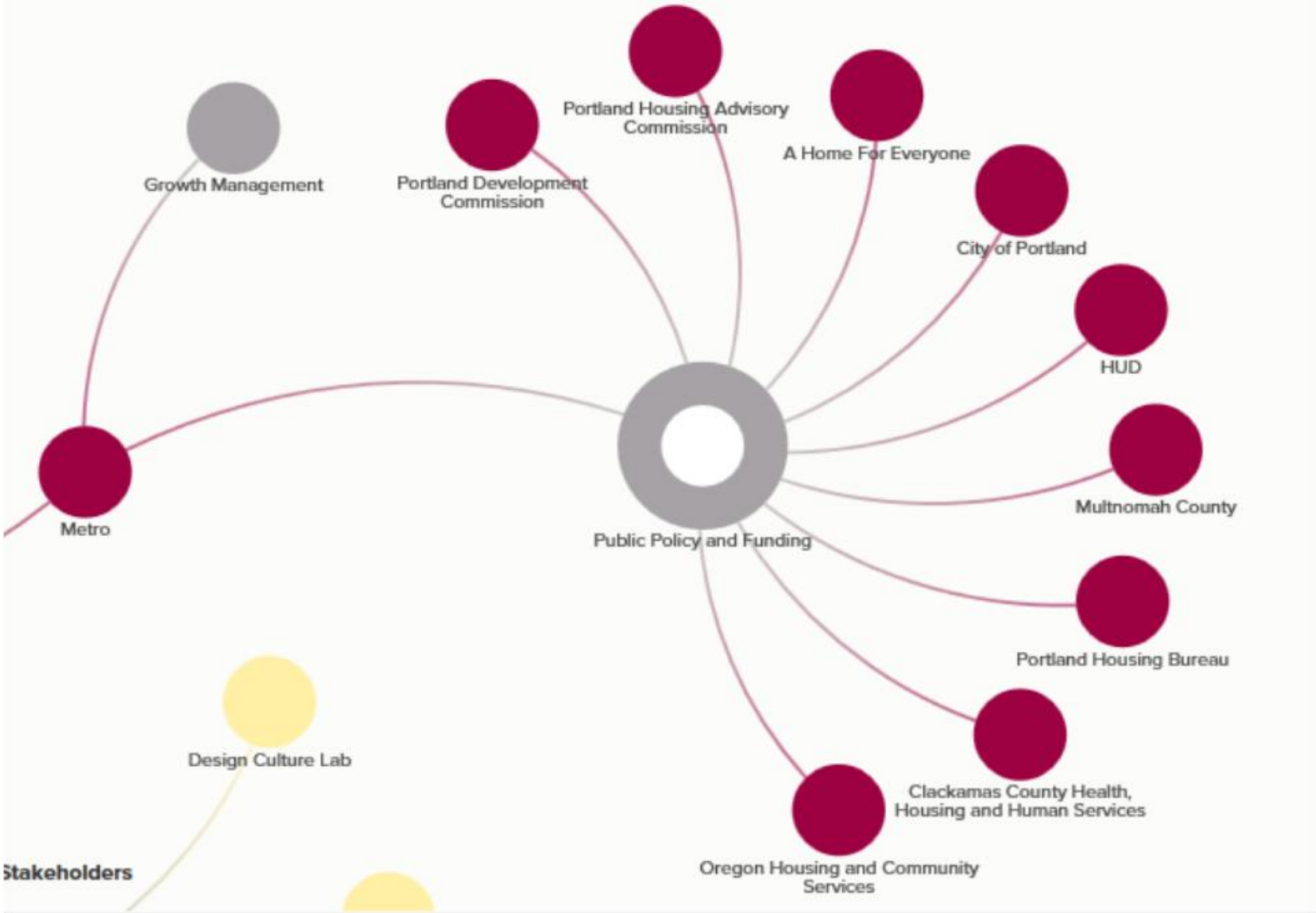
### PDX Housing Stakeholders

- Affordable Housing and Services
- Homeless and Special Needs Housing and Services
- For-Profit Affordable Housing Services
- Philanthropy
- Theory and Research
- Public Policy
- Community Organizing and Advocacy
- Journalism and Storytelling
- Art and Community Design
- Residents

# Where does Metro fit in the equitable housing ecosystem?

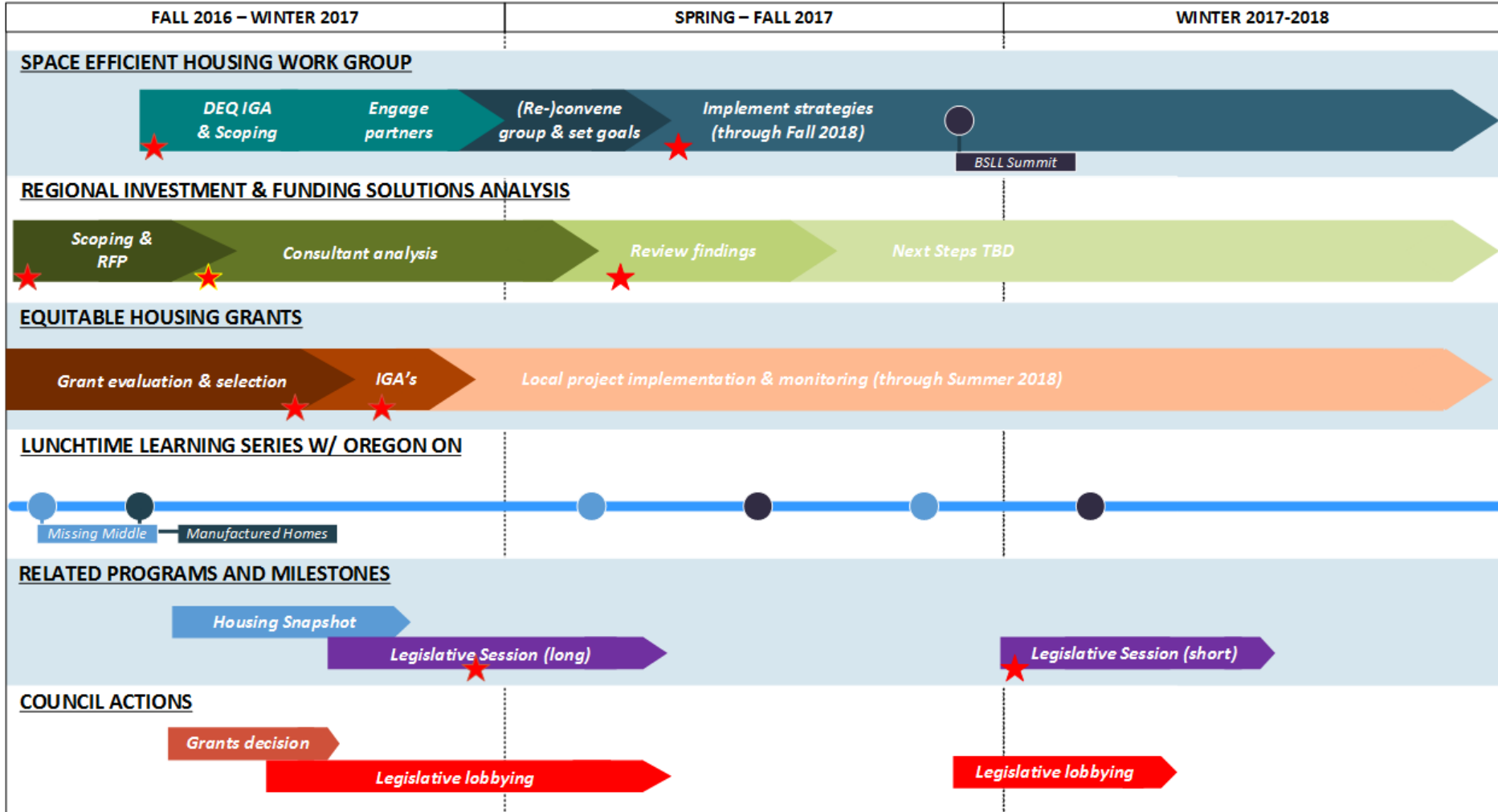


# Where does Metro fit in the equitable housing ecosystem?



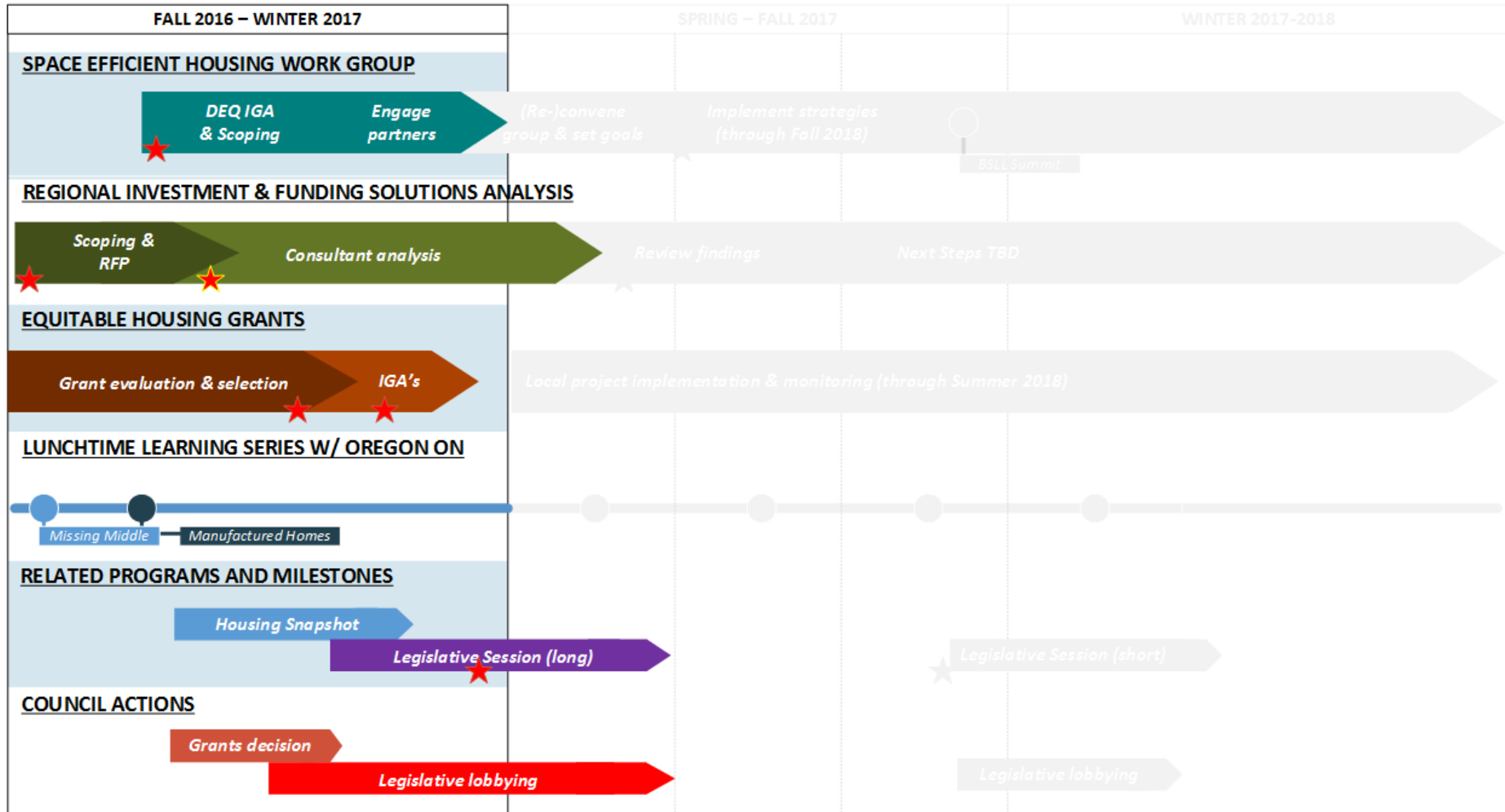
# Workstreams and milestones

★ Anticipated Council updates



# Workstreams and milestones

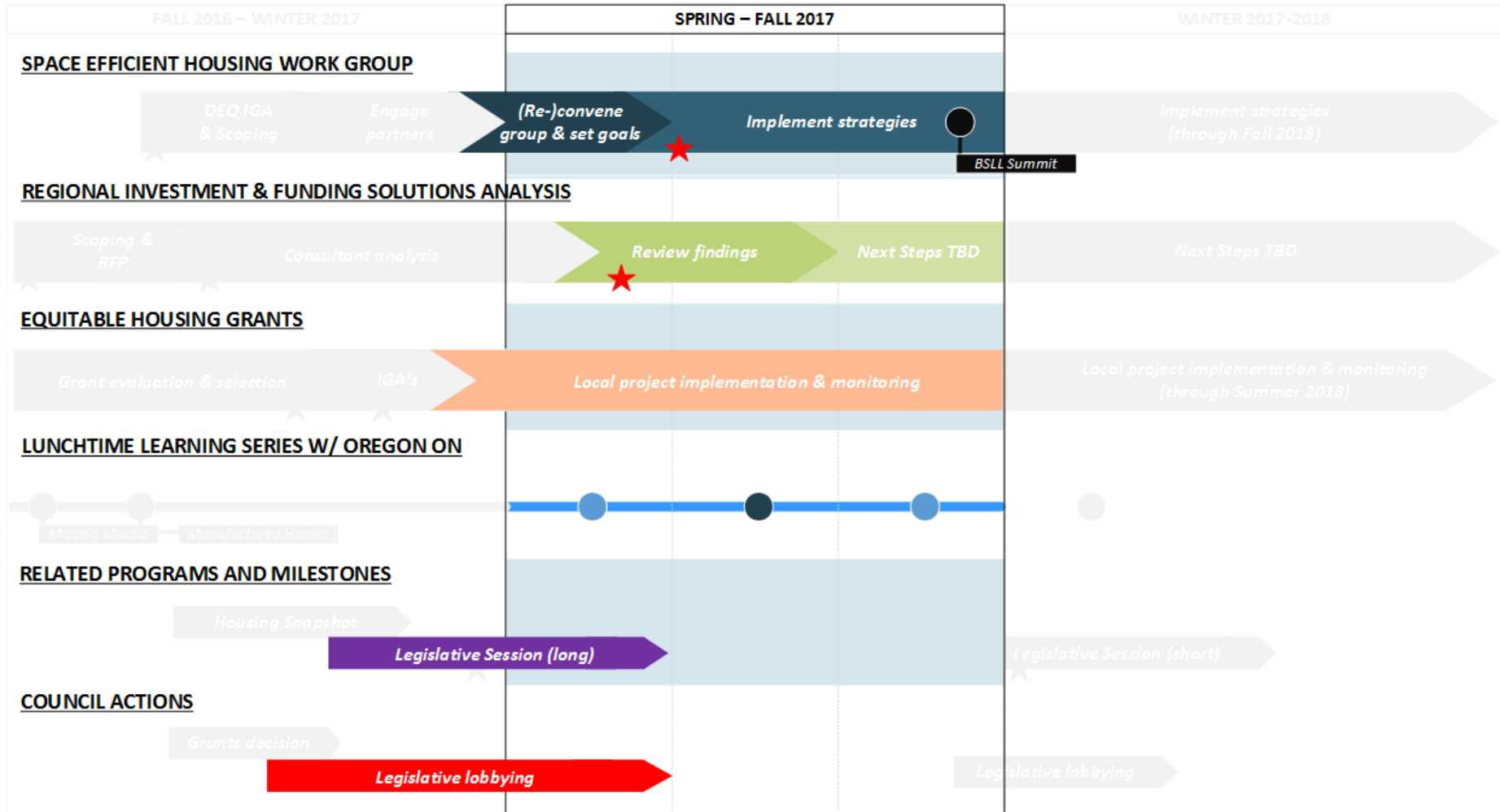
★ Anticipated Council updates





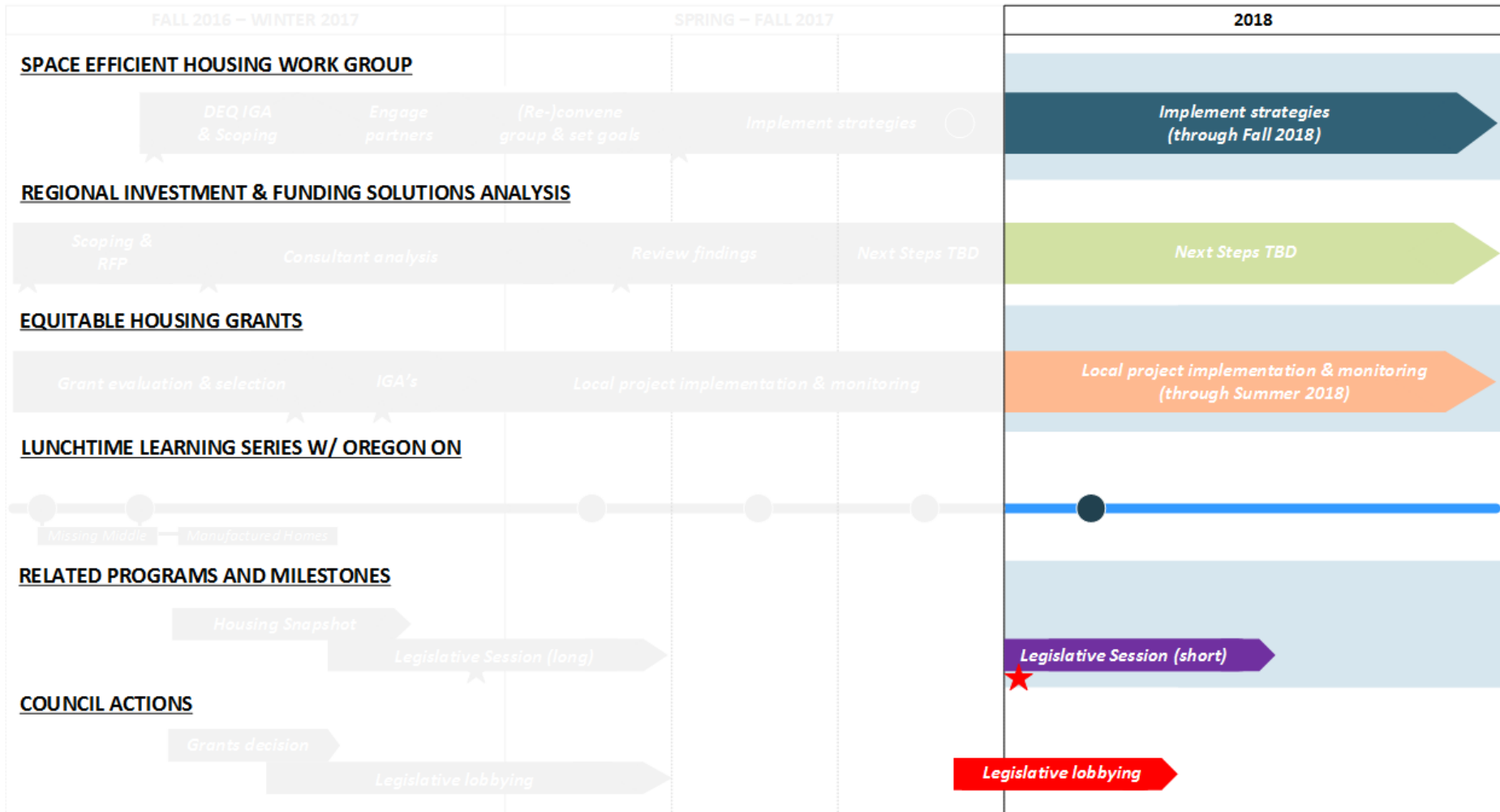
# Workstreams and milestones

★ Anticipated Council updates



# Workstreams and milestones

★ Anticipated Council updates



# Policy and funding roadmap



# Programmatic strategies

What can Metro do to help local jurisdictions and other stakeholders **plan for and develop** equitable housing?

Category	Program Element	Outcomes
GRANTS AND TECHNICAL ASSISTANCE	2016-17 Equitable housing grants (part of CPDG)	Local policy changes; development plans (12-18 months)
	Transit oriented development (TOD)	TOD projects
	Technical assistance/data	
EDUCATION + AWARENESS	Lunchtime learning series w/Oregon ON	4-6 lunchtime events in 2016-2017
	Regional housing snapshot report	October 2016 report
COALITION BUILDING	Oregon Housing Alliance	Statewide housing legislative agenda
	Space Efficient Housing Work Group	State and local policy agenda, education/awareness programs, and financial partnerships and innovations

# Policy strategies

What can Metro do to **require or encourage** jurisdictions to adopt equitable housing policies and strategies?

Category	Strategy	Level of Difficulty
MANDATES	<b>Functional Plan requirements*</b>	M/H
	UGB value capture	M/H
	Title 7 / mandatory affordability targets	H
INCENTIVES	Conditional grant funding	M/H
	UGB best practice requirements	M
	<b>Technical assistance and planning grants*</b>	L
DATA AND REPORTING	<b>Regulated affordable housing inventory*</b>	L
	<b>Rental housing database*</b>	L
	Affordability performance dashboard	L/M

# Metro Compass

*Vision*

**What can we be the best in the world at doing?**  
Metro is a leader in civic innovation and services at a regional scale.

**Making a great place**

**What are we passionate about?**  
We inspire, engage, teach and invite people to preserve and enhance the quality of life and the environment for current and future generations.

*Mission*

**What generates the resources that enable us to serve?**  
We build trust in Metro by providing needed and valued regional services, building relationships based on exceptional customer service, and collaborating with the communities we serve.

*Resource Generator*

## Using the compass to set priorities

The answer to the three compass questions determines whether a program, service or initiative is a Metro priority. To be a priority, a work effort not only must align with Metro's vision and mission, but also must generate resources.

# Investment strategies

Preliminary staff assessment of Metro's implementation role, policy/functional alignment, and potential for leverage

Category	Strategy	Vision	Mission	Resource generator
NEW DEVELOPMENT	Land/property acquisition and banking*	H	H	H
	Construction grants and gap financing*	M/H	M	M/H
	Inclusionary housing incentives*	M/H	M/H	M/H
PRESERVATION	Preservation of regulated affordable multifamily rental housing	M	L	L/M
	Preservation of non-regulated affordable rental housing	M	H	M/H
	Homeowner stabilization (e.g., anti-foreclosure, weatherization)	L	L	L
DIRECT CONSUMER SUBSIDIES	Rental assistance (short and long term)	L	L	L/M
	Homebuyer assistance	L	L	L/M

# Key considerations

- ❑ **Quantitative impact and return on investment (ROI):** Number of units created/preserved per dollar invested; leverage potential
- ❑ **Qualitative impact:** Location + type of housing created or preserved; impact on creating benefits for disadvantaged communities; impact on displacement
- ❑ **Flexibility:** Impact in different market types; adaptability through market changes
- ❑ **Scale:** Minimum scale necessary to have an impact
- ❑ **Compatible revenue sources:** Types of funding that could be used for these activities
- ❑ **Implementation:** Potential investment vehicles and partners
- ❑ **Policy and functional alignment:** Alignment with 2040, Goal 10, and Metro's existing functions
- ❑ **Existing Efforts:** How crowded the space is; potential for new investment to fill a critical gap in existing resources and programs

## Investment & funding strategy analysis

(Fall 2016-Spring 2017)

### Scope:

- Market and development typology
- Affordability gap analysis
- State and local funding and policy scan
- Investment strategy analysis

### Consultant:

David Rosen & Associates

FALL 2016 – WINTER 2017

SPRING – FALL 2017

WINTER 2017-2018

Scoping &  
RFP

Consultant analysis

Review findings

Next Steps TBD



# Possible revenue tools

- Construction excise tax
- General obligation bond
- Lodging tax
- UGB value capture
- TOD increment financing
- Regional excise/sales tax
- Real estate transfer tax
- Land value tax

# Policy and funding roadmap

**FALL 2016**

- 2017 legislature
- Staff investment strategy analysis

**SPRING  
2017**

- Prioritize investment strategies
- Partner engagement strategy

**2017-2018**

- Next steps on policy, funding and development

# Discussion

- Are there any ideas the Council feels strongly should NOT be considered in the staff analysis of investment/funding strategies?
- Does Council have feedback on the overall direction?



# RESTORE RECREATIONAL IMMUNITY

## REQUEST

Restore recreational immunity to landowners so they continue to allow Oregonians to access their land for recreational use and enjoyment.

## BACKGROUND

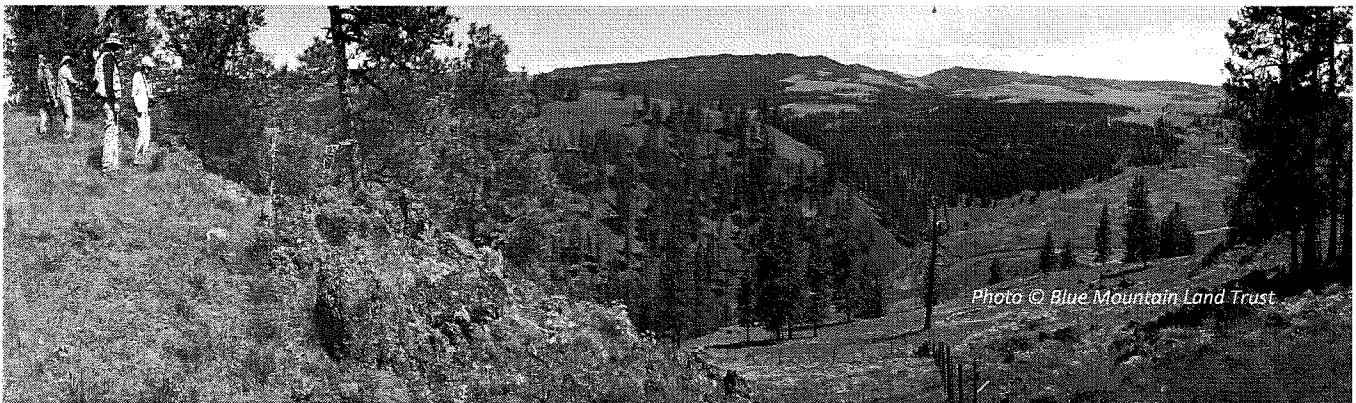
The Oregon Public Use of Lands Act<sup>1</sup> encourages *public and private* owners of land to make their land available to the public for recreational purposes by providing landowners immunity from tort liability. However, a recent Oregon Supreme Court decision undermined the immunity guaranteed in the Act, which could result in a severe reduction of land available to Oregonians for their recreational use and enjoyment.

### What is Recreational Immunity?

Landowners, *both public and private*, who make their land available without charge for recreational use by the public are not liable if a person is injured while using the land for recreational purposes.

The Public Use of Lands Act has increased the availability of land for free recreation by limiting liability to cities, counties, parks, schools and a wide range of private owners, including farmers and timber companies that allow hunters, anglers, hikers, mountain bikers and other members of the public to use or traverse their lands at no charge.

Recreational immunity is the cornerstone principle that secures the public policy goals of the Oregon Public Use of Lands Act.



## SUPPORTERS

Oregon Recreation and Park Association  
Special Districts Association of Oregon  
Metro  
Oregon Farm Bureau  
Oregonians in Action  
Oregon Forest Industries Council  
Coalition of Oregon Land Trusts  
Lane County

League of Oregon Cities  
City of Gresham  
City of Hillsboro  
City of Medford  
City of Portland  
Association of Oregon Counties  
Oregon School Boards Association

# RESTORE RECREATIONAL IMMUNITY



## OREGON SUPREME COURT CASES

### ***Johnson v. Gibson***<sup>ii</sup>

In *Johnson v. Gibson*, the Court held that when the Legislature passed the Public Lands Act, it intended only to immunize the actual landowner, and never intended recreational immunity to protect employees or agents acting on behalf of the landowners.

This ruling effectively undermines a landowner's recreational immunity from tort liability under the Act. Public employers are statutorily required to indemnify their employees<sup>iii</sup> and most, if not all, landowners will ultimately be responsible for the negligence of their employees that results in injury to a member of the public.

Landowners must now weigh whether allowing the public to recreate on their land and in their facilities is worth the increased risk of liability.

### ***Horton v. OHSU***<sup>iv</sup>

In *Horton*, the Court confirmed the need for statutory liability limitations to satisfy the Oregon Constitution's remedy clause and reinstated a flexible analysis for deciding remedy clause<sup>v</sup> cases, which requires the Legislature to clearly demonstrate its reasons for adjusting duties and remedies that one person owes another. Expressly stating the duties owed to members of the public who use public or private land for recreational purposes and why those duties were altered would satisfy the remedies clause and ensure recreational immunity is not illusory for landowners.

## PROPOSED AMENDMENTS

Following *Johnson*, we seek to amend ORS 105.672 to restore recreational immunity to a landowner's officers, employees, agents or volunteers who are acting within the scope of their employment or duties.

Following *Horton*, we seek to amend ORS 105.682 to satisfy the remedy clause to expressly state a landowner's duty of care toward members of the public who use the land for recreation without charge.

<sup>i</sup> ORS 105.668 - 700

<sup>ii</sup> *Johnson v. Gibson*, 358 Or 624 (2016)

<sup>iii</sup> ORS 30.285 & 30.287

<sup>iv</sup> *Horton v. OHSU*, 359 Or 168 (217-221) (2016)

<sup>v</sup> Article I, section 10, of the Oregon Constitution provides that "every man shall have remedy by due course of law for injury done him in his person, property, or reputation."