

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF APPROVING THE) RESOLUTION NO. 18-4863
POLICY AND INVESTMENT FRAMEWORK)
FOR CYCLE 6 OF THE 2040 PLANNING) Introduced by Chief Operating Officer Martha
AND DEVELOPMENT GRANT PROGRAM) Bennett in concurrence with Council
) 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; 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 \$21.7 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, in June 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, 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, on March 19, 2015 the Metro Council adopted Resolution No. 15-4595, which approved the Metro COO’s proposed amendments to the Administrative Rules; and

WHEREAS, on April 13, 2017 the Metro Council adopted Resolution 17-4782, which approved further proposed amendments to the Administrative rules, renamed the program the “2040 Planning and Development Grant Program,” and modified the program to consider proposals and award grants on an annual basis; and

WHEREAS, in order to most effectively address barriers to development, implement the 2040 Growth Concept, and to help address the recent equitable housing crisis in our region, the Metro Council has established a policy emphasis in previous grant cycles to enable the grant program respond to current trends and issues affecting development in our region; and

WHEREAS, our region continues to have a crisis in housing supply as growth continues, especially for low income residents, and multiple tools, strategies, and approaches are needed across the region to provide more equitable housing; and

WHEREAS, racial equity, equitable development and equitable housing continue to be issues of considerable local and regional concern given the potential for displacement of long-term residents, businesses and communities of color due to changing neighborhoods and rapidly escalating real estate costs; and

WHEREAS, on June 23, 2016, the Metro Council adopted Resolution No. 16-4708, which approved Metro's Strategic Plan to Advance Racial Equity, Diversity and Inclusion; and

WHEREAS, complementary strategies for employment growth, redevelopment, and land readiness are also important to address other current regional growth and development issues; and

WHEREAS, a clear policy framework outlining the goals of Cycle 6 funding and the types of projects that will be prioritized for the current round of grant funds will assist local governments in identifying and scoping projects that will best satisfy the policy emphasis and meet the selection criteria; and

WHEREAS, a shift from bi-annual grant cycles to annual grant cycles will provide greater flexibility and opportunity to grant applicants to propose and implement projects that will facilitate development that aligns with local and regional goals; and

WHEREAS, a new name for the grant program, "2040 Planning and Development Grants" program will emphasize the program's connection to implementing the region's 2040 growth concept and will reduce confusion of the "CPDG" acronym with the federal government's Community Development Block Grant, commonly referred to as the "CDBG" program; and

WHEREAS, the recently revised administrative rules, approved by the Metro COO in January 2018 and set forth in Exhibit A, provide added clarity regarding the various types of projects that are eligible to be considered for grant funding, more clearly describe the criteria for evaluating grant applications, and highlight current procedures for administering future cycles of the 2040 Planning and Development Grant program; now, therefore

BE IT RESOLVED that:

1. The Metro Council hereby authorizes and directs the Metro COO and staff to continue to administer the 2040 Planning and Development grants in accordance with the revised administrative rules, approved by the COO in January 2018 and set forth in Exhibit A, attached hereto and incorporated herein.
2. The Metro Council hereby directs the Metro COO and staff to continue to implement improvements to grant program administration and monitoring of the investments over time to ensure that the program is successfully supporting regional goals and policies set forth in the 2040 Growth Concept, the Urban Growth Management Functional Plan, and the six desired outcomes outlined in the Regional Framework Plan.
3. The Metro Council hereby authorizes and directs the Metro COO and staff to initiate Cycle 6 of Metro's 2040 Planning and Development grants, and to award up to \$2.0 million of CET revenue to fund projects using the following policy and investment emphasis:

- a. Twenty-five percent (25%) of allocated funds will be targeted to qualified concept planning and comprehensive planning projects for urban reserves and new urban areas.
 - b. Fifty percent (50%) of allocated funds will be targeted for qualified projects that will facilitate implementation of equitable development projects inside the UGB, which may include but are not limited to:
 - Planning or pre-development work for equitable housing (diverse, physically accessible, affordable housing choices with access to opportunities, services, and amenities);
 - Planning or pre-development work for projects that will advance quality of life outcomes for marginalized communities, such as quality education, living wage employment, healthy environments, and transportation;
 - Facilitation of development-related efforts in partnership with a community organization whose primary mission is to serve communities of color;
 - Planning or pre-development for projects that will serve a specific neighborhood or geography with a high percentage of residents that are people of color or historically marginalized communities;
 - Planning for public and private developments, investments, programs and policies that will be enacted to meet the needs of communities of color and reduce racial disparities, taking into account past history and current conditions.
 - c. Twenty-five percent (25%) of allocated funds will be targeted to qualified projects that will facilitate development in centers, corridors, station areas, employment areas, or other locations within the UGB.
 - d. In the event that there are insufficient qualified applications within any one funding target category, grant funds may be awarded to qualified applications in any other category.
4. The Metro Council hereby authorizes and directs the Metro COO and staff to utilize discretion in determining which of the grant applications received meet the intent of the equitable development target and therefore merit consideration under category b above, or if they should be reassigned to another category.

ADOPTED by the Metro Council this 28 day of January, 2018


Tom Hughes, Council President



Approved as to Form:



Alison R. Kean, Metro Attorney

**ADMINISTRATIVE RULES: METRO CODE CHAPTER 7.04
[REVISED JANUARY 2018]**

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”). Effective April 1, 2017 the CPDG program shall be known as the 2040 Planning and Development Grant program (“2040 Grant” or “Grant”). 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. These Administrative Rules also establish the procedures for administering the 2040 Grants. 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.

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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

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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

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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.

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H. Review. Review of any action of the Chief Operating Officer or Hearings Officer, taken pursuant to the Construction Excise Tax Ordinance, or the rules and regulations adopted by the Chief Operating Officer, shall be taken solely and exclusively by writ of review in the manner set forth in ORS 34.010 through 34.100, provided, however, that any aggrieved Person may demand such relief by writ of review.

I. CET Sunset (Metro Code Section 7.04.230).

1. The CET shall not be imposed on and no person shall be liable to pay any tax for any Construction activity that is commenced pursuant to a building permit issued on or after December 31, 2020.
2. Local governments collecting CETs shall remit the CETs to Metro on a quarterly or monthly basis, based on the jurisdiction's CET Collection IGAs with Metro. Each quarter, within thirty days of receiving CET remittances from all collecting local jurisdictions, Metro will issue a written statement of the total CET that Metro has received that quarter and cumulatively.
3. CET remittance to Metro shall be net of the local government's administrative expenses in collecting the CET, up to five percent (5%) of the CET collected by the local government as set forth in the Metro CET Collection IGA. This net amount of CET remitted to Metro shall be the basis for Metro's calculations of CET cumulative totals.
4. The CET shall cease to be imposed by local governments on December 31, 2020, and shall be remitted by the local governments to Metro as soon thereafter as possible.

III. CET Collection Procedures.

A. Local Government CET Collection and Remittance Via Intergovernmental Agreements (Metro Code Section 7.04.110). For those local governments collecting the CET pursuant to Intergovernmental Agreements with Metro, the following procedures shall apply:

1. CET Report; Information Required. Each quarter (unless a local government prefers to report monthly), along with its CET remittance to Metro, the local government shall prepare and submit to the Metro Chief Operating Officer a report of the CETs and building permits issued for the previous quarter's construction activities. The report shall include: the number of building permits issued that quarter; the aggregate value of construction; the number of building permits for which CET exemptions were given; the aggregate value of construction for the exempted construction; the aggregate amount of CET paid; and the amount of CET administrative fee retained by the local government pursuant to this CET Collection IGA.
2. CET Remittance to Metro. Local governments collecting CET via IGAs with Metro shall remit the collected CET to Metro. Remittance shall be quarterly, unless a jurisdiction prefers to remit the CET monthly, by the 30th of the month following the quarter (or month) ending. Quarters end on September 30, December 31, March 31 and June 30 of each year. CET remittance and the CET Report shall be sent to Metro, attn Construction Excise Tax Accounting Specialist, 600 NE Grand, Portland, Oregon 97232.
3. Remuneration to Local Government for Collecting CET. As consideration for collecting the CET, each local government collecting the CET shall retain no more than five percent (5%)

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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.

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 \$3.7 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 through the CPDG program 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 through the CPDG program took place in 2015-2016 for planning in all areas that are in the UGB and Urban Reserves. This cycle earmarked 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 required that if the amount of qualified Grant Requests for areas added to the UGB since 2009 and Urban Reserves did not equal or exceed the earmarked amounts, the remainder of funds may be allocated to Grant Requests for planning in other areas. A total of approximately \$4.7 million in grants was awarded. In 2016-17 an additional cycle of grants was conducted to support Equitable Housing Planning and Development projects. A total of \$575,000 in funding was awarded.
5. The Cycle 5 grant allocation took place in 2017-2018 for planning in all areas that are in the UGB and Urban Reserves. This cycle earmarked fifty percent (50%) of funding for equitable development projects, twenty-five percent (25%) of projected revenue for planning within the existing UGB, and twenty five percent (25%) of projected revenue for concept planning and comprehensive planning for urban reserves and new urban areas. A total of approximately \$1.99 million in grants was awarded.
6. The Cycle 6 grant allocation shall take place in 2018-2019 for planning in all areas that are in the UGB and Urban Reserves. This grant cycle shall earmark fifty percent (50%) of projected revenue for equitable development projects, twenty-five percent (25%) of projected revenue for planning within the existing UGB, and twenty five percent (25%) 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 such projects does not equal or exceed the earmarked amounts, the remainder of funds may be allocated to Grant Requests for planning in other areas.

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7. The Cycle 7 grant allocation shall take place in 2019-2020 for planning in all areas that are in the UGB and Urban Reserves. The Metro Council shall determine in January 2019 how to best target program investments, but no less than twenty five percent (25%) of funding shall be earmarked for concept planning and comprehensive planning for urban reserves and new urban areas.
8. The Cycle 8 grant allocation shall take place in 2020-2021 for planning in all areas that are in the UGB and Urban Reserves. The Metro Council shall determine in January 2020 how to best target program investments, but no less than twenty five percent (25%) of funding shall be earmarked for concept planning and comprehensive planning for urban reserves and new urban areas.
9. 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.
10. 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 Cycles 5, 6, 7 and 8.

B. 2040 Grants Screening Committee.

1. Role. A 2040 Planning and Development Grants Screening Committee ("Committee") shall be created, which 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.
2. Committee Members. The COO shall appoint six to nine members to the Committee, including the Committee Chair. A new Committee shall be established for Cycle 5, Cycle 6, Cycle 7 and Cycle 8 grants, but may include members from the previous Committees. 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. Range of Eligible Grant Project Types. To be eligible for consideration, all projects must advance and complement regional goals and policies. Projects must help to advance established regional development policy goals and outcomes, expressed in the 2040 Growth Concept, the Urban Growth Management Functional Plan and in the following six Desired Outcomes stated in the Regional Framework Plan, adopted by the region to guide future planning:

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- People live and work in vibrant communities where their everyday needs are easily accessible;
 - Current and future residents benefit from the region's sustained economic competitiveness and prosperity;
 - People have safe and reliable transportation choices that enhance their quality of life;
 - The region is a leader in minimizing contributions to climate change;
 - Current and future generations enjoy clean air, clean water and healthy ecosystems;
 - The benefits and burdens of growth and change are distributed equitably.
1. Urban reserve concept planning. Concept planning for future development of new urban areas on land currently designated Urban Reserves (or in areas brought into the Urban Growth Boundary since 2009) to facilitate the future development of complete communities and comply with Title 11 of the Urban Growth Management Functional Plan.
 2. Strategy or policy development. Development and adoption of action plans, strategic initiatives, code refinements, incentives, streamlined review and other development related policy work that will meaningfully increase community readiness for development or identify and reduce barriers to development, redevelopment, and infill.
 3. Investment strategies and financial tools. Exploration and development of investment strategies and financial tools and incentives to facilitate development, redevelopment and infill, such as urban renewal districts, enterprise zones, tax abatements, or collaborative capital improvement plans.
 4. Area-specific redevelopment planning. Strategic planning, concept design and feasibility for redevelopment and infill of specific areas or districts.
 5. Site-specific development or redevelopment. Schematic design and feasibility analyses for site-specific development projects, equitable housing projects and public-private partnerships
 6. Equitable housing projects and policies. Any approach or combination of approaches outlined in sections 2-5 above that will facilitate the development of equitable housing throughout the metro region. Equitable housing is defined as diverse, quality, physically accessible, affordable housing choices with access to opportunities, services, and amenities.
 7. Future refinement of Project Types. The Metro COO has the authority to direct staff to refine and modify or expand the range of Eligible Project Types as needed to improve program effectiveness and clarity and continually improve the program's effectiveness in achieving regional goals.
- D. Grant Application Procedures
The Metro COO will direct the staff to organize a fair and efficient process for soliciting grant requests as follows:
1. Eligible Grant Applicants. Grant applicants shall be cities or counties within the Metro boundary. Other local governments, as defined in ORS 174.116, may apply for 2040 Grants only in partnership with a city or county within the Metro boundary.
 2. Application guidelines and timelines. The guidelines and timeline for submitting grant applications will be publicized each year with sufficient time to provide eligible applicants with

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adequate time for planning, budgeting, preparation and submittal of all required application materials. The grant application process may include an option for applicants to receive feedback from Metro staff regarding their proposed projects prior to submission of the final application.

3. Application Endorsements and Matching Contributions. Applications should reflect commitment by county, city and/or relevant service providers to participate in the planning effort and describe how governance issues will be resolved through or prior to the planning process. All grant requests shall include an endorsement of support of the governing body and a minimum 10% matching contribution specifying allocation of local funding and/or staff resources for the proposed project. Metro may request that any jurisdiction that elects to submit more than one grant application per cycle shall submit a prioritized list clarifying the relative importance of each application to that jurisdiction.
4. Refinement of Application Procedures. The Metro COO has the authority to direct staff to refine and modify the general Grant Application Procedures outlined above as needed to ensure smooth, efficient administration and continual improvement of the grant program.

E. Grant Request Evaluation Criteria

1. Clear development outcomes. Proposal presents a compelling project concept with specific, impactful outcomes to facilitate development. Performance measures are clearly articulated.
2. Advances and complements regional goals and policies. Proposed project will support Metro's established regional policy goal of advancing racial equity, in addition to the planning policies and desired outcomes described in section C above.
3. Aligns with local goals and/or maximizes community assets. Proposed project will help to realize community plans and goals, accommodate expected population and employment growth, and/or maximize existing community assets such as public transit, parks, natural features, historic districts, employment areas.
4. Likelihood of full implementation. Key stakeholders (property owners, policy makers, funding jurisdictions, service districts, etc.) have committed full support for the project goals and timelines, will be meaningfully involved in guiding the project, and have the capacity and authority to implement actions/investments as needed to bring the project to fruition. Opportunities and threats to project commitments are identified.
5. Public involvement. Proposal incorporates best practices for public involvement; strategies for meaningfully engaging neighbors, businesses, property owners, and key stakeholders, as well as historically marginalized communities including low income and minority populations are clearly articulated and well-conceived; proposal indicates how public input will be used to strengthen the project outcomes and/or increase the likelihood of successful implementation.
6. Team roles and capacity. Roles and responsibilities of the applicant county or city, as well as any additional partners have been clearly defined; proposed staff has skill set, experience and appropriate available time needed to successfully manage all aspect of the grant project and oversee the work of consultant team or teams on behalf of the project partners
7. Jurisdiction track record. Applicant has proven capability to successfully implement community development projects, especially past CPDG or 2040 Grant projects; prior grants have fully delivered expected products and outcomes according to the approved schedule of

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milestones; any CPDG or 2040 Grant projects still underway are on track and scheduled for completion prior to initiation of proposed project.

8. Grant leverage. Extent to which partners have committed additional in-kind or direct financial contributions to the project beyond the minimum ten percent match that is required;
9. Replicable best practices. Proposed project will develop best practices that could be replicated in other locations. (Note: this criterion may not be applied to all projects.)

F. Review of Grant Requests.

1. Metro staff shall conduct an initial screening of all grant requests to confirm that they meet the minimum program and eligibility requirements. Staff shall forward the letters of intent and Grant Requests to the members of the Committee, along with a summary of the strengths and weaknesses of each request according to the grant evaluation criteria. Staff will provide assistance to the Committee as needed to support their review and deliberations.
2. The Committee shall review the Grant Requests and evaluate them based on the Grant Request Evaluation Criteria set forth above. 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. 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.
3. The Metro COO shall review the Committee's recommendations and shall forward her/his own grant recommendations, based on the Grant Requests Evaluation Criteria set forth above, along with the recommendations of the Screening Committee, to the Metro Council.
4. The Metro Council shall decide, in a public hearing, whether or not to approve funding of any grants, and the amount of each grant.

G. General Procedures for Entering into Grant Agreements.

1. Grant Award Letter. Upon the award of a grant, the Metro COO shall issue a Grant Award Letter for the grant amount determined by the Metro Council.
2. Negotiation of the Intergovernmental Agreement ("IGA"). Metro and the Grantee shall negotiate the terms of the Grant Intergovernmental Agreement ("IGA") The scope of work in the grant application as modified by any condition in Metro Council grant award shall be the basis for Metro and the Grantee to negotiate the IGA. The IGA shall set forth the role of Metro's project liaison on the project advisory committee, an agreed-upon scope of work and budget, a draft request for proposals for any consultants needed to implement the project, matching funds and grant payment amounts, and any administrative penalties that may be imposed by Metro for amendments to the IGA or project timeline that may be requested by the applicant. The IGA shall retain the right of the Metro COO to terminate a Grant award if the milestones set forth in the IGA are not met within the timeframes set forth in the IGA. The governing body of the Grant applicant jurisdiction shall authorize the approval of the IGA. Following execution of the IGA by appropriate personnel on behalf of the local governing body, the COO shall execute the IGA. If the IGA has not been finalized and signed by Metro and

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grantee within six months of grant award, the COO shall exercise the authority to cancel the grant award.

3. Procurement of project consultants. Grantees shall work with Metro to select an appropriate consultant team as needed to complete all proposed work outlined in the grant application. Prior to execution of the Grant IGA, Metro shall have the opportunity to review and approve any requests for proposals to be issued by the Grantee. Metro shall be involved as an equal partner in the selection of all project consultants.
4. Contracting with project consultants. Following final selection of project consultants, applicant shall prepare draft contracts with all consultants that fully describe the project milestones, deliverables and timelines and provide maximum costs for consultant tasks. Metro shall have the opportunity to review and approve draft contracts with consultants who will perform work prior to the execution of such contracts.
5. Revision of IGA schedule of milestones. Once the contract terms, including required milestones, timelines, deliverables, and fees have been fully negotiated and agreed, the Grant IGA schedule of milestones shall be updated to fully reflect the final project approach and shall be incorporated into an amended IGA and also as an exhibit to any consultant contracts.
6. Refinement of Grant Agreement Procedures. The COO has the authority to direct staff to refine and modify the general Grant Agreement procedures outlined above as needed to ensure smooth, efficient administration and continual improvement of the grant program.

H. General Procedures for Distribution of Grant Funds.

1. Grant Payments. 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 may be distributed following execution of the IGA by 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.
2. Eligible Grant Expenses. The following expenses shall be considered eligible expenses for reimbursement with grant funds:
 - Materials directly related to project
 - Consultants' work and expenses on project
 - Grant applicant staff support directly related to project
 - Overhead directly attributable to project.
3. Ineligible Grant Expenses. Grant applications or requests to reimburse local governments for planning work contracted for or completed prior to execution of an approved Grant IGA shall not be considered.

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 18-4863, FOR THE PURPOSE OF APPROVING THE POLICY AND INVESTMENT FRAMEWORK FOR CYCLE 6 OF THE 2040 PLANNING AND DEVELOPMENT GRANT PROGRAM

Date: January 11, 2018

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BACKGROUND

In 2006, Metro established a construction excise tax (CET) to generate revenue for providing grants to local governments for regional and local planning. The ordinance contained a sunset provision based on a maximum amount collected of \$6.3 million, and the maximum amount was reached in 2009. In 2009 the Metro Council extended the CET for an additional five year period.

In 2014, the Metro Council adopted Ordinance No. 14-1328, which extended the CET through December 2020 and directed the Chief Operating Officer (COO) 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). In 2015, the Metro Council adopted a resolution approving the Metro COO's amendments to the Administrative Rules.

As part of the resolution approving the Cycle 4 grants in 2015, the Metro Council directed the COO and staff to return to the Council with a proposal regarding possible uses of unallocated CET revenue from Cycle 4. 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 using unallocated Cycle 4 CET revenue to support local implementation of projects that would eliminate barriers to construction of affordable housing across the region. On December 1, 2016 the Metro Council adopted Resolution No. 16- 4753, which awarded approximately \$575,000 in Equitable Housing Planning and Development grants.

In February, 2016 the Metro Auditor conducted a review the Community Planning and Development Grant program and made recommendations for improvements. At the outset of the next grant cycle ("Cycle 5") slated for 2017, the COO and staff gave additional consideration to how the CPDG and Equitable Housing Planning and Development Grant programs evolved, and what could make the programs more effective. On April 6, 2017 the Council approved Resolution 17-4782, authorizing additional administrative rule changes and program adjustments. The program switched to an annual grant award cycle and one application process for all grant types. The CPDG program name was also changed to 2040 Planning and Development Grants. The program began to utilize the ZoomGrants software, and revised other application procedures to be more user-friendly and better assist applicants with grant project development. Additionally, to help address the region's continuing housing crisis, especially for people of color and low-income residents, Resolution 17-4782 also established an investment emphasis for Cycle 5, targeting 50% of the grant funds in the cycle to fund equitable development projects.

On June 30, 2017, Metro received 18 complete applications requesting \$3.7 million in grant funding. Fourteen of the applications requested consideration in the equitable development funding category. In October, 2017 the Metro Council passed Resolution 17-4846 awarding \$1.99 million in grant funds to 9 projects; \$984,000 or 49.5% of available grant funds were awarded to projects that had a strong emphasis on equitable development.

Proposed Continuation of Equitable Development Investment Emphasis for Cycle 6

As part of the Strategy to Advance Racial Equity, Diversity and Inclusion adopted by Metro Council in Resolution No. 16-4708 on June 23, 2016, the Planning and Development Department has been reviewing programs and policies to identify improvements that could to help advance racial equity throughout the region. Our region continues to have an affordable housing crisis that disproportionately affects people of color, and multiple tools, strategies, and approaches are needed across the region to promote equitable development. Metro staff therefore recommend that the Council renew approval for the equitable development investment emphasis for Cycle 6 grants as follows:

- 25% of grant funds will be targeted for concept planning or comprehensive planning projects in Urban Reserves or areas brought into UGB since 2009
- 50% of allocated funds will be targeted for qualified projects that will facilitate implementation of equitable development projects inside the UGB, which may include but are not limited to:
 - Planning or pre-development work for equitable housing (diverse, physically accessible, affordable housing choices with access to opportunities, services, and amenities);
 - Planning or pre-development work for projects that will advance quality of life outcomes for communities of color, such as quality education, living wage employment, healthy environments, and transportation;
 - Facilitation of development-related efforts in partnership with a community organization whose primary mission is to serve communities of color;
 - Planning or pre-development for projects that will serve a specific neighborhood or geography with a high percentage of residents that are people of color;
 - Planning for public and private developments, investments, programs and policies that will be enacted to meet the needs of communities of color and reduce racial disparities, taking into account past history and current conditions.
- 25% of funds will be targeted for projects to facilitate development in centers, corridors, station areas, employment areas or other locations within the UGB.
- In the event that there are insufficient qualified applications within any one funding target category, grant funds may be awarded to qualified applications in any other category.

The explicit equitable development emphasis for grant investments will continue to encourage cities and counties to prioritize project applications that specifically address racial inequities and affordable housing challenges in their communities. Metro staff will review applications that seek consideration under the equitable development category; those that do not have a sufficiently strong equitable development emphasis to merit funding in that category will be then be added to the general pool of applications for projects within the UGB, and evaluated alongside those applications based on their relative overall merits. The screening committee, the COO, and the Council will ultimately need to bring their own

professional judgment and common sense to applying the criteria, allocating resources from each funding target and determining what projects best meet all criteria, including regional policy priorities and equitable development objectives, and therefore warrant funding. The 2040 Planning and Development Grants application handbook will address the above nuances and provide adequate clarification for applicants.

Proposed 2018 Administrative Rule Revisions

The Metro COO has approved revised rules (Exhibit A to the resolution) to be used to guide this cycle and future grant cycles of the 2040 Planning and Development Grant program. The changes can be summarized as follows:

- Under Section IV.A, updated item 5 to reflect the results of Cycle 5, updated item 6, to reflect the investment targets proposed in this resolution, and updated items 7 and 8 to indicate that investment targets for those cycles will be determined prior to initiation.
- Under Section IV.C, Range of Eligible Grant Project types, added base requirement for eligibility such that all projects must help to advance established regional policies as expressed in the 2040 Growth Concept, the Urban Growth Management Functional Plan, and the six Desired Outcomes stated in the Regional Framework plan (this was previously a grant evaluation criterion under section E.)
- Under Section IV.E, Grant Evaluation Criteria, changed criterion number 2 “Advances and complements regional goals and policies” to include a focus on racial equity, in addition to other regional policy goals and outcomes highlighted in section IV.C.
- Under section IV.G, revised and clarified the process steps for executing inter-governmental agreements for grant projects.

Additional administrative measures to advance racial equity

In addition to the equitable development investment target and the proposed revision of the grant evaluation criteria to specifically include a criterion addressing racial equity, staff will continue to integrate other equity-focused measures into the 2040 Grant program by:

- Ensuring that diverse perspectives are represented on the Grants Screening Committee;
- Providing training for all applicants and grantees on racial equity
- Ensuring that all grant recipients incorporate best practices for public involvement as they implement their grant projects
- Requiring that Requests for Proposals for grant project consultants incorporate racial equity into the evaluation criteria.

ANALYSIS/INFORMATION

1. Known Opposition

It is possible that there may be opposition to some of the proposed program adjustments, but all recommended changes are in alignment with Metro's stated policies and goals.

2. Legal Antecedents

- Metro Ordinance 06-1115 ("2006 CET Ordinance) established the construction excise tax
- Metro Ordinance 09-1220 extended the CET for an additional five year period (through September 2014).
- Metro Ordinance 14-1328 extended the CET for an additional five year period (through December 2020) and directed the Metro COO to propose amendments to the existing administrative rules.
- Metro resolution 15-4595 approved the Metro COO's proposed amendments to the administrative rules
- Metro resolution 15-4640 directed the Metro COO's to propose a possible use for unallocated funds in Cycle 4
- Metro resolution 16-4753 awarded approximately \$575,000 in Equitable Housing Planning and Development Grants
- Metro resolution 17-4782 revised administrative rules and set the investment targets to promote equitable development
- Metro resolution 17-4846 awarded \$1.99 million in 2040 Planning and Development Grants, of which \$984,000 (49.5%) was awarded to equitable development projects.

3. Anticipated Effects

Approval of the resolution will continue Metro Council's policy and investment emphasis for grant funding to support equitable development by earmarking 50% of available funds and giving first consideration to qualified projects inside the UGB with a strong emphasis on serving historically marginalized communities and/or equitable housing. The resolution will also provide a clear policy and administrative framework for the program as set forth in the 2018 Revised Administrative Rules.

4. Budget Impacts

Exact funding levels for any grant cycle is subject to the projected excise tax revenues collected. Staff time for program implementation is included in the Planning and Development Department budget.

5. Attachments

Attachment 1: 2018 Revised Administrative Rules (clean version)

Attachment 2: 2018 Revised Administrative Rules (strikethrough version)

RECOMMENDED ACTION

The Chief Operating Officer recommends adoption of the resolution to approve the policy and investment framework for "Cycle 6" of the 2040 Planning and Development Grant Program.

ATTACHMENT 1 TO STAFF REPORT TO RESOLUTION NO. 18-4863

**ADMINISTRATIVE RULES: METRO CODE CHAPTER 7.04
[REVISED JANUARY 2018]**

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”). Effective April 1, 2017 the CPDG program shall be known as the 2040 Planning and Development Grant program (“2040 Grant” or “Grant”). 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. These Administrative Rules also establish the procedures for administering the 2040 Grants. 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.

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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

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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

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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.

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H. Review. Review of any action of the Chief Operating Officer or Hearings Officer, taken pursuant to the Construction Excise Tax Ordinance, or the rules and regulations adopted by the Chief Operating Officer, shall be taken solely and exclusively by writ of review in the manner set forth in ORS 34.010 through 34.100, provided, however, that any aggrieved Person may demand such relief by writ of review.

I. CET Sunset (Metro Code Section 7.04.230).

1. The CET shall not be imposed on and no person shall be liable to pay any tax for any Construction activity that is commenced pursuant to a building permit issued on or after December 31, 2020.
2. Local governments collecting CETs shall remit the CETs to Metro on a quarterly or monthly basis, based on the jurisdiction's CET Collection IGAs with Metro. Each quarter, within thirty days of receiving CET remittances from all collecting local jurisdictions, Metro will issue a written statement of the total CET that Metro has received that quarter and cumulatively.
3. CET remittance to Metro shall be net of the local government's administrative expenses in collecting the CET, up to five percent (5%) of the CET collected by the local government as set forth in the Metro CET Collection IGA. This net amount of CET remitted to Metro shall be the basis for Metro's calculations of CET cumulative totals.
4. The CET shall cease to be imposed by local governments on December 31, 2020, and shall be remitted by the local governments to Metro as soon thereafter as possible.

III. CET Collection Procedures.

A. Local Government CET Collection and Remittance Via Intergovernmental Agreements (Metro Code Section 7.04.110). For those local governments collecting the CET pursuant to Intergovernmental Agreements with Metro, the following procedures shall apply:

1. CET Report; Information Required. Each quarter (unless a local government prefers to report monthly), along with its CET remittance to Metro, the local government shall prepare and submit to the Metro Chief Operating Officer a report of the CETs and building permits issued for the previous quarter's construction activities. The report shall include: the number of building permits issued that quarter; the aggregate value of construction; the number of building permits for which CET exemptions were given; the aggregate value of construction for the exempted construction; the aggregate amount of CET paid; and the amount of CET administrative fee retained by the local government pursuant to this CET Collection IGA.
2. CET Remittance to Metro. Local governments collecting CET via IGAs with Metro shall remit the collected CET to Metro. Remittance shall be quarterly, unless a jurisdiction prefers to remit the CET monthly, by the 30th of the month following the quarter (or month) ending. Quarters end on September 30, December 31, March 31 and June 30 of each year. CET remittance and the CET Report shall be sent to Metro, attn Construction Excise Tax Accounting Specialist, 600 NE Grand, Portland, Oregon 97232.
3. Remuneration to Local Government for Collecting CET. As consideration for collecting the CET, each local government collecting the CET shall retain no more than five percent (5%)

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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.

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 \$3.7 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 through the CPDG program 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 through the CPDG program took place in 2015-2016 for planning in all areas that are in the UGB and Urban Reserves. This cycle earmarked 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 required that if the amount of qualified Grant Requests for areas added to the UGB since 2009 and Urban Reserves did not equal or exceed the earmarked amounts, the remainder of funds may be allocated to Grant Requests for planning in other areas. A total of approximately \$4.7 million in grants was awarded. In 2016-17 an additional cycle of grants was conducted to support Equitable Housing Planning and Development projects. A total of \$575,000 in funding was awarded.
5. The Cycle 5 grant allocation took place in 2017-2018 for planning in all areas that are in the UGB and Urban Reserves. This cycle earmarked fifty percent (50%) of funding for equitable development projects, twenty-five percent (25%) of projected revenue for planning within the existing UGB, and twenty five percent (25%) of projected revenue for concept planning and comprehensive planning for urban reserves and new urban areas. A total of approximately \$1.99 million in grants was awarded.
6. The Cycle 6 grant allocation shall take place in 2018-2019 for planning in all areas that are in the UGB and Urban Reserves. This grant cycle shall earmark fifty percent (50%) of projected revenue for equitable development projects, twenty-five percent (25%) of projected revenue for planning within the existing UGB, and twenty five percent (25%) 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 such projects does not equal or exceed the earmarked amounts, the remainder of funds may be allocated to Grant Requests for planning in other areas.

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7. The Cycle 7 grant allocation shall take place in 2019-2020 for planning in all areas that are in the UGB and Urban Reserves. The Metro Council shall determine in January 2019 how to best target program investments, but no less than twenty five percent (25%) of funding shall be earmarked for concept planning and comprehensive planning for urban reserves and new urban areas.
8. The Cycle 8 grant allocation shall take place in 2020-2021 for planning in all areas that are in the UGB and Urban Reserves. The Metro Council shall determine in January 2020 how to best target program investments, but no less than twenty five percent (25%) of funding shall be earmarked for concept planning and comprehensive planning for urban reserves and new urban areas.
9. 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.
10. 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 Cycles 5, 6, 7 and 8.

B. 2040 Grants Screening Committee.

1. Role. A 2040 Planning and Development Grants Screening Committee ("Committee") shall be created, which 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.
2. Committee Members. The COO shall appoint six to nine members to the Committee, including the Committee Chair. A new Committee shall be established for Cycle 5, Cycle 6, Cycle 7 and Cycle 8 grants, but may include members from the previous Committees. 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. Range of Eligible Grant Project Types. To be eligible for consideration, all projects must advance and complement regional goals and policies. Projects must help to advance established regional development policy goals and outcomes, expressed in the 2040 Growth Concept, the Urban Growth Management Functional Plan and in the following six Desired Outcomes stated in the Regional Framework Plan, adopted by the region to guide future planning:

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- People live and work in vibrant communities where their everyday needs are easily accessible;
 - Current and future residents benefit from the region's sustained economic competitiveness and prosperity;
 - People have safe and reliable transportation choices that enhance their quality of life;
 - The region is a leader in minimizing contributions to climate change;
 - Current and future generations enjoy clean air, clean water and healthy ecosystems;
 - The benefits and burdens of growth and change are distributed equitably.
1. Urban reserve concept planning. Concept planning for future development of new urban areas on land currently designated Urban Reserves (or in areas brought into the Urban Growth Boundary since 2009) to facilitate the future development of complete communities and comply with Title 11 of the Urban Growth Management Functional Plan.
 2. Strategy or policy development. Development and adoption of action plans, strategic initiatives, code refinements, incentives, streamlined review and other development related policy work that will meaningfully increase community readiness for development or identify and reduce barriers to development, redevelopment, and infill.
 3. Investment strategies and financial tools. Exploration and development of investment strategies and financial tools and incentives to facilitate development, redevelopment and infill, such as urban renewal districts, enterprise zones, tax abatements, or collaborative capital improvement plans.
 4. Area-specific redevelopment planning. Strategic planning, concept design and feasibility for redevelopment and infill of specific areas or districts.
 5. Site-specific development or redevelopment. Schematic design and feasibility analyses for site-specific development projects, equitable housing projects and public-private partnerships
 6. Equitable housing projects and policies. Any approach or combination of approaches outlined in sections 2-5 above that will facilitate the development of equitable housing throughout the metro region. Equitable housing is defined as diverse, quality, physically accessible, affordable housing choices with access to opportunities, services, and amenities.
 7. Future refinement of Project Types. The Metro COO has the authority to direct staff to refine and modify or expand the range of Eligible Project Types as needed to improve program effectiveness and clarity and continually improve the program's effectiveness in achieving regional goals.

D. Grant Application Procedures

The Metro COO will direct the staff to organize a fair and efficient process for soliciting grant requests as follows:

1. Eligible Grant Applicants. Grant applicants shall be cities or counties within the Metro boundary. Other local governments, as defined in ORS 174.116, may apply for 2040 Grants only in partnership with a city or county within the Metro boundary.
2. Application guidelines and timelines. The guidelines and timeline for submitting grant applications will be publicized each year with sufficient time to provide eligible applicants with

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adequate time for planning, budgeting, preparation and submittal of all required application materials. The grant application process may include an option for applicants to receive feedback from Metro staff regarding their proposed projects prior to submission of the final application.

3. Application Endorsements and Matching Contributions. Applications should reflect commitment by county, city and/or relevant service providers to participate in the planning effort and describe how governance issues will be resolved through or prior to the planning process. All grant requests shall include an endorsement of support of the governing body and a minimum 10% matching contribution specifying allocation of local funding and/or staff resources for the proposed project. Metro may request that any jurisdiction that elects to submit more than one grant application per cycle shall submit a prioritized list clarifying the relative importance of each application to that jurisdiction.
4. Refinement of Application Procedures. The Metro COO has the authority to direct staff to refine and modify the general Grant Application Procedures outlined above as needed to ensure smooth, efficient administration and continual improvement of the grant program.

E. Grant Request Evaluation Criteria

1. Clear development outcomes. Proposal presents a compelling project concept with specific, impactful outcomes to facilitate development. Performance measures are clearly articulated.
2. Advances and complements regional goals and policies. Proposed project will support Metro's established regional policy goal of advancing racial equity, in addition to the planning policies and desired outcomes described in section C above.
3. Aligns with local goals and/or maximizes community assets. Proposed project will help to realize community plans and goals, accommodate expected population and employment growth, and/or maximize existing community assets such as public transit, parks, natural features, historic districts, employment areas.
4. Likelihood of full implementation. Key stakeholders (property owners, policy makers, funding jurisdictions, service districts, etc.) have committed full support for the project goals and timelines, will be meaningfully involved in guiding the project, and have the capacity and authority to implement actions/investments as needed to bring the project to fruition. Opportunities and threats to project commitments are identified.
5. Public involvement. Proposal incorporates best practices for public involvement; strategies for meaningfully engaging neighbors, businesses, property owners, and key stakeholders, as well as historically marginalized communities including low income and minority populations are clearly articulated and well-conceived; proposal indicates how public input will be used to strengthen the project outcomes and/or increase the likelihood of successful implementation.
6. Team roles and capacity. Roles and responsibilities of the applicant county or city, as well as any additional partners have been clearly defined; proposed staff has skill set, experience and appropriate available time needed to successfully manage all aspect of the grant project and oversee the work of consultant team or teams on behalf of the project partners
7. Jurisdiction track record. Applicant has proven capability to successfully implement community development projects, especially past CPDG or 2040 Grant projects; prior grants have fully delivered expected products and outcomes according to the approved schedule of

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milestones; any CPDG or 2040 Grant projects still underway are on track and scheduled for completion prior to initiation of proposed project.

8. Grant leverage. Extent to which partners have committed additional in-kind or direct financial contributions to the project beyond the minimum ten percent match that is required;
9. Replicable best practices. Proposed project will develop best practices that could be replicated in other locations. (Note: this criterion may not be applied to all projects.)

F. Review of Grant Requests.

1. Metro staff shall conduct an initial screening of all grant requests to confirm that they meet the minimum program and eligibility requirements. Staff shall forward the letters of intent and Grant Requests to the members of the Committee, along with a summary of the strengths and weaknesses of each request according to the grant evaluation criteria. Staff will provide assistance to the Committee as needed to support their review and deliberations.
2. The Committee shall review the Grant Requests and evaluate them based on the Grant Request Evaluation Criteria set forth above. 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. 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.
3. The Metro COO shall review the Committee's recommendations and shall forward her/his own grant recommendations, based on the Grant Requests Evaluation Criteria set forth above, along with the recommendations of the Screening Committee, to the Metro Council.
4. The Metro Council shall decide, in a public hearing, whether or not to approve funding of any grants, and the amount of each grant.

G. General Procedures for Entering into Grant Agreements.

1. Grant Award Letter. Upon the award of a grant, the Metro COO shall issue a Grant Award Letter for the grant amount determined by the Metro Council.
2. Negotiation of the Intergovernmental Agreement ("IGA"). Metro and the Grantee shall negotiate the terms of the Grant Intergovernmental Agreement ("IGA") The scope of work in the grant application as modified by any condition in Metro Council grant award shall be the basis for Metro and the Grantee to negotiate the IGA. The IGA shall set forth the role of Metro's project liaison on the project advisory committee, an agreed-upon scope of work and budget, a draft request for proposals for any consultants needed to implement the project, matching funds and grant payment amounts, and any administrative penalties that may be imposed by Metro for amendments to the IGA or project timeline that may be requested by the applicant. The IGA shall retain the right of the Metro COO to terminate a Grant award if the milestones set forth in the IGA are not met within the timeframes set forth in the IGA. The governing body of the Grant applicant jurisdiction shall authorize the approval of the IGA. Following execution of the IGA by appropriate personnel on behalf of the local governing body, the COO shall execute the IGA. If the IGA has not been finalized and signed by Metro and

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grantee within six months of grant award, the COO shall exercise the authority to cancel the grant award.

3. Procurement of project consultants. Grantees shall work with Metro to select an appropriate consultant team as needed to complete all proposed work outlined in the grant application. Prior to execution of the Grant IGA, Metro shall have the opportunity to review and approve any requests for proposals to be issued by the Grantee. Metro shall be involved as an equal partner in the selection of all project consultants.
4. Contracting with project consultants. Following final selection of project consultants, applicant shall prepare draft contracts with all consultants that fully describe the project milestones, deliverables and timelines and provide maximum costs for consultant tasks. Metro shall have the opportunity to review and approve draft contracts with consultants who will perform work prior to the execution of such contracts.
5. Revision of IGA schedule of milestones. Once the contract terms, including required milestones, timelines, deliverables, and fees have been fully negotiated and agreed, the Grant IGA schedule of milestones shall be updated to fully reflect the final project approach and shall be incorporated into an amended IGA and also as an exhibit to any consultant contracts.
6. Refinement of Grant Agreement Procedures. The COO has the authority to direct staff to refine and modify the general Grant Agreement procedures outlined above as needed to ensure smooth, efficient administration and continual improvement of the grant program.

H. General Procedures for Distribution of Grant Funds.

1. Grant Payments. 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 may be distributed following execution of the IGA by 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.
2. Eligible Grant Expenses. The following expenses shall be considered eligible expenses for reimbursement with grant funds:
 - Materials directly related to project
 - Consultants' work and expenses on project
 - Grant applicant staff support directly related to project
 - Overhead directly attributable to project.
3. Ineligible Grant Expenses. Grant applications or requests to reimburse local governments for planning work contracted for or completed prior to execution of an approved Grant IGA shall not be considered.

ADMINISTRATIVE RULES: METRO CODE CHAPTER 7.04
[REVISED ~~MARCH 2017~~ JANUARY 2018]

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”). Effective April 1, 2017 the CPDG program shall be known as the 2040 Planning and Development Grant program (“2040 Grant” or “Grant”). 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. These Administrative Rules also establish the procedures for administering the 2040 Grants. 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

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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

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- 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.

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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

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number of building permits issued that quarter; the aggregate value of construction; the number of building permits for which CET exemptions were given; the aggregate value of construction for the exempted construction; the aggregate amount of CET paid; and the amount of CET administrative fee retained by the local government pursuant to this CET Collection IGA.

2. CET Remittance to Metro. Local governments collecting CET via IGAs with Metro shall remit the collected CET to Metro. Remittance shall be quarterly, unless a jurisdiction prefers to remit the CET monthly, by the 30th of the month following the quarter (or month) ending. Quarters end on September 30, December 31, March 31 and June 30 of each year. CET remittance and the CET Report shall be sent to Metro, attn Construction Excise Tax Accounting Specialist, 600 NE Grand, Portland, Oregon 97232.
 3. Remuneration to Local Government for Collecting CET. As consideration for collecting the CET, each local government collecting the CET shall retain no more than five percent (5%) of the tax collected by that local government. This payment is intended to be a reimbursement of costs incurred. Prior to submitting the CET to Metro, the local government shall deduct the remuneration agreed upon directly from the collected tax, and the amounts deducted and retained shall be identified on the report submitted to Metro.
 4. Metro Administrative Fee. To partially reimburse Metro for its costs in implementing and administering the CET program, Metro will retain five percent (5%) of the net CET funds remitted by local governments to Metro.
 5. Audit and Control Features. Each local government shall allow the Chief Operating Officer, or any person authorized in writing by the Chief Operating Officer, to examine the books, papers, building permits, and accounting records relating to any collection and payment of the tax, during normal business hours, and may investigate the accuracy of reporting to ascertain and determine the amount of CET required to be paid.
 6. Failure to Pay. Upon a Person's refusal to or failure to pay the CET when due, the local government administering that Person's building permit shall notify Metro in writing within five (5) business days of such failure, with information adequate for Metro to begin collection procedures against that Person, including the Person's name, address, phone numbers, Value of New Construction, Construction Project, and building permit number. Upon a Person's refusal or failure to pay the CET, it shall be Metro's responsibility to institute collection procedures to obtain payment of the CET as well as any other remedy Metro may have under law.
- B. Metro Collection Procedures in Event of Non-payment. The CET is due and payable upon issuance of a building permit. It is unlawful for any Person to whom the CET is applicable to fail to pay all or any portion of the CET. If the tax is not paid when due, Metro will send a letter notifying the non-payer of his obligation to pay the CET along with the following information:
1. Penalty. In addition to any other fine or penalty provided by Chapter 7.04 of the Metro Code, penalty for non- payment will be added to the original tax outstanding. That penalty is equal to fifty dollars (\$50.00) or the amount of the tax owed, whichever is greater.
 2. Misdemeanor. In addition to any other civil enforcement, non- payment of the CET is a misdemeanor and shall be punishable, upon conviction, by a fine of not more than five hundred dollars (\$500.00). This fine shall be charged to any officer, director, partner or other Person having direction or control over any Person not paying the tax as due.

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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.

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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 \$3.7 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 through the CPDG program 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 through the CPDG program took place in 2015-2016 for planning in all areas that are in the UGB and Urban Reserves. This cycle earmarked 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 required that if the amount of qualified Grant Requests for areas added to the UGB since 2009 and Urban Reserves did not equal or exceed the earmarked amounts, the remainder of funds may be allocated to Grant Requests for planning in other areas. A total of approximately \$4.7 million in grants was awarded. In 2016-17 an additional cycle of grants was conducted to support Equitable Housing Planning and Development projects. A total of \$575,000 in funding was awarded.
5. The Cycle 5 grant allocation ~~shall take~~took place in 2017-2018 for planning in all areas that are in the UGB and Urban Reserves. This ~~grant allocation shall earmark cycle earmarked~~ seventy five percent (50%) of funding for equitable development projects, twenty-five to ~~seventy five percent (70% to 75%)~~ seventy five percent (70% to 75%) of projected revenue for planning within the existing UGB, and ~~earmark~~ earmark ~~twenty five percent to thirty percent (25% to 30%)~~ twenty five percent (25%) 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 such projects does not equal or exceed the earmarked amounts, the remainder of funds may be allocated to Grant Requests for planning in other areas.~~ A total of approximately \$1.99 million in grants was awarded.
6. The Cycle 6 grant allocation shall take place in 2018-2019 for planning in all areas that are in the UGB and Urban Reserves. This grant ~~allocation shall earmark cycle shall earmark~~ fifty percent (50%) of projected revenue for equitable development projects, twenty-five percent (25%) of projected revenue for planning within the existing UGB, and twenty five percent (25%) of projected revenue for concept planning and comprehensive planning for

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~~urban reserves and new urban areas, 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 such projects does not equal or exceed the earmarked amounts, the remainder of funds may be allocated to Grant Requests for planning in other areas.

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7. The Cycle 7 grant allocation shall take place in 2019-2020 for planning in all areas that are in the UGB and Urban Reserves. ~~-The Metro Council shall determine in January 2019 how to best target program investments, but no less than 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 funding shall be earmarked for concept planning and comprehensive planning for urban reserves and new urban areas, and require that if the amount of qualified Grant Requests for such projects does not equal or exceed the earmarked amounts, the remainder of funds may be allocated to Grant Requests for planning in other areas.~~
8. The Cycle 8 grant allocation shall take place in 2020-2021 for planning in all areas that are in the UGB and Urban Reserves. ~~-The Metro Council shall determine in January 2020 how to best target program investments, but no less than twenty five percent (25%) of funding shall be earmarked for concept planning and comprehensive planning for urban reserves and new urban areas.~~
~~his 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 such projects does not equal or exceed the earmarked amounts, the remainder of funds may be allocated to Grant Requests for planning in other areas.~~
9. 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.
10. 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 Cycles 5, 6, 7 and 8.

B. 2040 Grants Screening Committee.

1. Role. A 2040 Planning and Development Grants Screening Committee ("Committee") shall be created, which 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.
2. Committee Members. The COO shall appoint six to nine members to the Committee, including the Committee Chair. A new Committee shall be established for Cycle 5, Cycle 6, Cycle 7 and Cycle 8 grants, but may include members from the previous Committees. 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;

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- 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.~~ Range of Eligible Grant Project Types. To be eligible for consideration, all projects must
advance and complement regional goals and policies. Projects must help to advance established
regional development policy goals and outcomes, expressed in the 2040 Growth Concept, the Urban
Growth Management Functional Plan and in the following six Desired Outcomes stated in the
Regional Framework Plan, adopted by the region to guide future planning:

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

1. Urban reserve concept planning. Concept planning for future development of new urban areas on land currently designated Urban Reserves (or in areas brought into the Urban Growth Boundary since 2009) to facilitate the future development of complete communities and comply with Title 11 of the Urban Growth Management Functional Plan.
2. Strategy or policy development. Development and adoption of action plans, strategic initiatives, code refinements, incentives, streamlined review and other development related policy work that will meaningfully increase community readiness for development or identify and reduce barriers to development, redevelopment, and infill.
3. Investment strategies and financial tools. Exploration and development of investment strategies and financial tools and incentives to facilitate development, redevelopment and infill, such as urban renewal districts, enterprise zones, tax abatements, or collaborative capital improvement plans.
4. Area-specific redevelopment planning. Strategic planning, concept design and feasibility for redevelopment and infill of specific areas or districts.
5. Site-specific development or redevelopment. Schematic design and feasibility analyses for site-specific development projects, equitable housing projects and public-private partnerships
6. Equitable housing projects and policies. Any approach or combination of approaches outlined in sections 2-5 above that will facilitate the development of equitable housing throughout the metro region. Equitable housing is defined as diverse, quality, physically accessible, affordable housing choices with access to opportunities, services, and amenities.
7. Future refinement of Project Types. The Metro COO has the authority to direct staff to refine and modify or expand the range of Eligible Project Types as needed to improve program effectiveness and clarity and continually improve the program's effectiveness in achieving regional goals.

D. Grant Application Procedures

The Metro COO will direct the staff to organize a fair and efficient process for soliciting grant requests as follows:

1. Eligible Grant Applicants. Grant applicants shall be cities or counties within the Metro boundary. Other local governments, as defined in ORS 174.116, may apply for ~~a-2040 GRANTS-Grants~~ only in partnership with a city or county within the Metro boundary.
2. Application guidelines and timelines. The guidelines and timeline for submitting grant applications will be publicized each year with sufficient time to provide eligible applicants with adequate time for planning, budgeting, preparation and submittal of all required application materials. The grant application process may include an option for applicants to receive feedback from Metro staff regarding their proposed projects prior to submission of the final application.
3. Application Endorsements and Matching Contributions. Applications should reflect commitment by county, city and/or relevant service providers to participate in the planning effort and describe how governance issues will be resolved through or prior to the planning process. All grant requests shall include an endorsement of support of the governing body and a minimum 10% matching contribution specifying allocation of local funding and/or staff resources for the proposed project. Metro may request that any jurisdiction that elects to submit more than one grant application per cycle shall submit a prioritized list clarifying the relative importance of each application to that jurisdiction.
4. Refinement of Application Procedures. The Metro COO has the authority to direct staff to refine and modify the general Grant Application Procedures outlined above as needed to ensure smooth, efficient administration and continual improvement of the grant program.

E. Grant Request Evaluation Criteria

1. Clear development outcomes. Proposal presents a compelling project concept with specific, impactful outcomes to facilitate development. Performance measures are clearly articulated.
2. Advances and complements regional goals and policies. -Proposed project will support Metro's help to advance established regional development policy goal ofs and outcomes advancing racial equity, in addition to the planning policies and desired outcomes described in section C above.;
 2. ~~expressed in the 2040 Growth Concept, the Urban Growth Management Functional Plan and in the following six Desired Outcomes stated in the Regional Framework Plan, adopted by the region to guide future planning:~~
 - ~~People live and work in vibrant communities where their everyday needs are easily accessible;~~
 - ~~Current and future residents benefit from the region's sustained economic competitiveness and prosperity;~~
 - ~~People have safe and reliable transportation choices that enhance their quality of life;~~
 - ~~The region is a leader in minimizing contributions to climate change;~~
 - ~~Current and future generations enjoy clean air, clean water and healthy ecosystems;~~
 - ~~The benefits and burdens of growth and change are distributed equitably.~~

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3. Aligns with local goals and/or maximizes community assets. Proposed project will help to realize community plans and goals, accommodate expected population and employment growth, and/or maximize existing community assets such as public transit, parks, natural features, historic districts, employment areas.
4. Likelihood of full implementation. Key stakeholders (property owners, policy makers, funding jurisdictions, service districts, etc.) have committed full support for the project goals and timelines, will be meaningfully involved in guiding the project, and have the capacity and authority to implement actions/investments as needed to bring the project to fruition. Opportunities and threats to project commitments are identified.
5. Public involvement. Proposal incorporates best practices for public involvement; strategies for meaningfully engaging neighbors, businesses, property owners, and key stakeholders, as well as historically marginalized communities including low income and minority populations are clearly articulated and well-conceived; proposal indicates how public input will be used to strengthen the project outcomes and/or increase the likelihood of successful implementation.
6. Team roles and capacity. Roles and responsibilities of the applicant county or city, as well as any additional partners have been clearly defined; proposed staff has skill set, experience and appropriate available time needed to successfully manage all aspect of the grant project and oversee the work of consultant team or teams on behalf of the project partners
7. Jurisdiction track record. Applicant has proven capability to successfully implement community development projects, especially past CPDG or 2040 Grant projects; prior grants have fully delivered expected products and outcomes according to the approved schedule of milestones; any CPDG or 2040 Grant projects still underway are on track and scheduled for completion prior to initiation of proposed project.
8. Grant leverage. Extent to which partners have committed additional in-kind or direct financial contributions to the project beyond the minimum ten percent match that is required;
9. Replicable best practices. Proposed project will develop best practices that could be replicated in other locations. (Note: this criterion may not be applied to all projects.)

F. Review of Grant Requests.

1. Metro staff shall conduct an initial screening of all grant requests to confirm that they meet the minimum program and eligibility requirements. Staff shall forward the letters of intent and Grant Requests to the members of the Committee, along with a summary of the strengths and weaknesses of each request according to the grant evaluation criteria. Staff will provide assistance to the Committee as needed to support their review and deliberations.
2. The Committee shall review the Grant Requests and evaluate them based on the Grant Request Evaluation Criteria set forth above. 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. 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.
3. The Metro COO shall review the Committee's recommendations and shall forward her/his own grant recommendations, based on the Grant Requests Evaluation Criteria set forth above, along with the recommendations of the Screening Committee, to the Metro Council.

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4. The Metro Council shall decide, in a public hearing, whether or not to approve funding of any grants, and the amount of each grant.

G. General Procedures for Entering into Grant Agreements.

1. Grant Award Letter. Upon the award of a grant, the Metro COO shall issue a Grant Award Letter for the grant amount determined by the Metro Council.

~~2. Negotiation of the draft Intergovernmental Agreement (“IGA”). Metro and the Grant Applicant shall negotiate the terms of the Grant Intergovernmental Agreement (“IGA”) The scope of work in the grant application as modified by any condition in Metro Council grant award shall be the basis for Metro and the Grantee to negotiate the draft IGA. The draft IGA shall set forth the role of Metro’s project liaison on the project advisory committee, an agreed-upon scope of work and budget, a draft request for proposals for any consultants needed to implement the project, completion dates of expected milestones and deliverables, matching funds and grant payment amounts for each milestone, and any administrative penalties that may be imposed by Metro for amendments to the IGA or project timeline that may be requested by the applicant. The IGA shall retain the right of the Metro COO to terminate a Grant award if the milestones set forth in the IGA are not met within the timeframes set forth in the IGA. The governing body of the Grant applicant jurisdiction shall authorize the approval of the IGA. Following execution of the IGA by appropriate personnel on behalf of the local governing body, the COO shall execute the IGA. If the IGA has not been finalized and signed by Metro and grantee within six months of grant award, the COO shall exercise the authority to cancel the grant award.~~

~~3.2.~~

~~4.3. Procurement of project consultants: Prior to execution of the final IGA, the Grantees applicant shall work with Metro to select an appropriate consultant team as needed to complete the all proposed work as outlined in the grant application. Prior to execution of the Grant IGA, Metro shall have the opportunity to review and approve any requests for proposals to be issued by the grant applicant Grantee. Metro and shall be involved as an equal partner in the selection of all project consultants.~~

~~5.4. Draft contract Contracting with project consultants: Following final selection of project consultants, applicant shall prepare draft contracts with all consultants that fully describe the project milestones, deliverables and timelines as set forth in the draft IGA and provide maximum costs for each consultant tasks. Metro shall have the opportunity to review and approve draft contracts with consultants who will perform work prior to the execution of such contracts.~~

~~5. Revision Execution of the final of IGA schedule of milestones: Once the contract terms, including required milestones, timelines, deliverables, and fees have been fully negotiated and agreed, the Grant IGA schedule of milestones shall be updated to fully reflect the final project approach and shall be incorporated into an amended IGA and also as an exhibit to The draft any consultant contracts shall be attached as an exhibit to the final IGA.~~

~~6. The governing body of the Grant applicant jurisdiction shall authorize the approval of the IGA. Following execution of the IGA by appropriate personnel on behalf of the local governing body, the COO shall execute the IGA. If the IGA has~~

~~not been finalized and signed by Metro and grantee within six months of grant award, the COO shall exercise the authority to cancel the grant award.~~

~~7.6. Refinement of Grant Agreement Procedures.~~ -The COO has the authority to direct staff to refine and modify the general Grant Agreement procedures outlined above as needed to ensure smooth, efficient administration and continual improvement of the grant program.

H. General Procedures for Distribution of Grant Funds.

1. Grant Payments. 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 may be distributed following execution of the IGA by 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.
2. Eligible Grant Expenses. The following expenses shall be considered eligible expenses for reimbursement with grant funds:
 - Materials directly related to project
 - Consultants' work and expenses on project
 - Grant applicant staff support directly related to project
 - Overhead directly attributable to project.
3. Ineligible Grant Expenses. Grant applications or requests to reimburse local governments for planning work already contracted for or completed prior to execution of an approved Grant IGA shall not be considered.