

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF REMOVING THE	)	ORDINANCE NO. 18-1425
SUNSET PROVISION OF THE METRO	)	
CONSTRUCTION EXCISE TAX THAT FUNDS	)	Introduced by Chief Operating Officer Martha
THE 2040 PLANNING AND DEVELOPMENT	)	Bennett in concurrence with Council
GRANT PROGRAM AND MAKING OTHER	)	President Tom Hughes
AMENDMENTS TO CHAPTER 7.04 OF THE	)	
METRO CODE	)	

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, when the Metro Council adopted code provisions in 2006 implementing the CET, the Metro Council included a sunset provision providing that the CET would expire after \$6.3 million in revenue had been collected; and

WHEREAS, in June 2009, on recommendation of an advisory group and the Metro Chief Operating Officer (COO) regarding the continuing need for funding regional and local planning, 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, 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, in order to comply with land use policies of the State of Oregon and Metro, local jurisdictions are required to perform concept planning of lands designated as urban reserves prior to petitioning Metro to include these lands within the urban growth boundary; and

WHEREAS, in order to comply with land use policies of the State of Oregon and Metro, local jurisdictions are required to complete comprehensive plans for new urban areas to enable these areas to develop as complete communities appropriately served with essential infrastructure; and

WHEREAS, planning and development work by local jurisdictions is critical to reduce barriers to development and enable infill development on lands already within the Urban Growth Boundary and served by infrastructure to develop and redevelop in a manner consistent with established regional goals; and

WHEREAS, planning and development work by local jurisdictions is critical to specifically facilitate development projects that advance equitable outcomes and access to opportunity for all residents of the region as the region grows and accommodates higher populations; and

WHEREAS, since the inception of the Construction Excise Tax in 2006, Metro has awarded over \$23.5 million in grants to cities, counties and other government entities in the region to fund critical planning and development activities that support implementation of the region’s long range plan for growth; and

WHEREAS, in 2016 the Oregon legislature enacted Senate Bill 1533, which repealed existing state law that prohibited local governments from enacting new CETs statewide, and

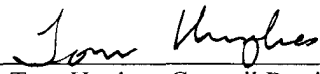
WHEREAS, in the 12 years of its existence, revenue from the CET has funded dozens of planning and development grants across the region that have helped cities and counties make land ready for urban development, both inside the existing UGB and in areas identified for future urbanization; and

WHEREAS, absent the provision of grant funds from Metro for planning and development, local jurisdictions may not have reliable and sufficient sources of funding to implement the planning and development policies and projects that are essential to build complete communities and successfully support 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; now therefore

THE METRO COUNCIL HEREBY ORDAINS AS FOLLOWS:

1. The Metro Code is amended as shown on Exhibit A to remove the sunset provision on the CET such that Metro may continue to provide critical funding to local jurisdictions to facilitate planning and development activities;
2. The Metro Code is also amended as shown on Exhibit A to clarify the purpose of CET funding, the types of projects that are eligible for exemptions from paying the CET, and the types of entities who may apply for grants;
3. The Metro Council hereby directs the Metro COO and staff to amend the Metro administrative rules governing the CET program to be consistent with the Metro Code amendments enacted by this ordinance.

ADOPTED by the Metro Council this 6th day of November, 2018.

  
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Tom Hughes, Council President

Approved as to Form:

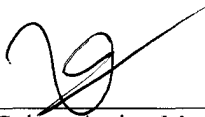
  
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Nathan Sykes, Acting Metro Attorney

Exhibit A to Ordinance 18-1425

Chapter 7.04

CONSTRUCTION EXCISE TAX

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7.04.010 Short Title

This chapter shall be known as the "Construction Excise Tax."

(Ordinance No. 06-1115, Sec. 1.)

7.04.020 Policy and Purpose

This chapter establishes a Construction Excise Tax to provide funding for regional and local planning that is required to make land ready for development or redevelopment. ~~after its inclusion in the Urban Growth Boundary.~~

(Ordinance No. 06-1115, Sec. 1.)

## Exhibit A to Ordinance 18-1425

### 7.04.030 Definitions

As used in this chapter:

(a) "Building Official" means any person charged by a municipality with responsibility for the administration and enforcement of a building code.

(b) "Chief Operating Officer" means the person holding the position of Metro Chief Operating Officer established by Section 2.20.010 of the Metro Code.

(c) "Construction" means erecting, constructing, enlarging, altering, repairing, moving, improving, removing, converting, or demolishing any building or structure for which the issuance of a building permit is required pursuant to the provisions of Oregon law, whether residential or non-residential. Construction also includes the installation of a manufactured dwelling.

(d) "Contractor" means any person who performs Construction for compensation.

(e) "Improvement" means any newly constructed structure or a modification of any existing structure.

(f) "Major Renovation" means any renovation, alteration or remodeling of an existing building or structure, or portion thereof, residential or non-residential, that requires or receives a building permit.

(g) "Manufactured Dwelling" means any building or structure designed to be used as a residence that is subject to regulation pursuant to ORS 446, as further defined in ORS 446.003(26).

(h) "Person" means and includes individuals, domestic and foreign corporations, public bodies, societies, joint ventures, associations, firms, partnerships, joint stock companies, clubs or any legal entity whatsoever.

(i) "Value of New Construction" means the total value of the Construction as determined by the construction permit or building permit for the Improvement and/or Major Renovation.

(Ordinance No. 06-1115, Sec. 1.)

## Exhibit A to Ordinance 18-1425

### 7.04.040 Exemptions

(a) No obligation to pay the tax imposed by Section 7.04.070 shall be imposed upon any Person who establishes that one or more of the following are met:

- (1) The Value of New Construction is less than or equal to \$100,000; or
- (2) 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~~people with incomes less than ~~50~~ 60 percent (~~50~~60%) of the median income for a period of 30 years or longer; or
- (3) 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 50 percent (50%) of the median income~~ disadvantaged people.

(b) The Building Official or Chief Operating Officer may require any Person seeking an exemption to demonstrate that the Person is eligible for an exemption and that all necessary facts to support the exemption are established.

(Ordinance No. 06-1115, Sec. 1.)

### 7.04.045 Ceiling

Notwithstanding the provisions set forth in Sections 7.04.070 and 7.04.080, if the Construction Excise tax imposed by this Chapter would be greater than \$12,000 (Twelve Thousand Dollars) as measured by the Value of New Construction that would generate that amount of tax, then the Construction Excise Tax imposed for that Construction is capped at a ceiling of \$12,000 (Twelve Thousand Dollars).

(Ordinance No. 06-1115, Sec. 1.)

## Exhibit A to Ordinance 18-1425

### 7.04.050 Rules and Regulations Promulgation

The Chief Operating Officer shall promulgate rules and regulations necessary for the administration and enforcement of this chapter.

(Ordinance No. 06-1115, Sec. 1.)

### 7.04.060 Administration and Enforcement Authority

(a) The Chief Operating Officer shall be responsible for the administration and enforcement of this chapter. In exercising the responsibilities of this section, the Chief Operating Officer may act through a designated representative.

(b) In order to carry out the duties imposed by this chapter, the Chief Operating Officer shall have the authority to do the following acts, which enumeration shall not be deemed to be exhaustive, namely: 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; and to take testimony of any Person by deposition.

(Ordinance No. 06-1115, Sec. 1.)

### 7.04.070 Imposition of Tax

A Construction Excise tax is imposed on every Person who engages in Construction within the Metro Area. The tax shall be measured by the total Value of New Construction at the rate set forth in Section 7.04.080. If no additional value is created or added by the Construction and if the Construction does not constitute a Major Renovation, then there shall be no tax due. 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.

(Ordinance No. 06-1115, Sec. 1.)

### 7.04.080 Rate of Tax

The rate of tax to be paid for Construction and/or Major Renovation shall be 0.12% of the Value of New Construction.

## Exhibit A to Ordinance 18-1425

(Ordinance No. 06-1115, Sec. 1.)

### 7.04.090 Failure to Pay

It shall be unlawful for any Person to fail to pay all or any portion of the tax imposed by this chapter.

(Ordinance No. 06-1115, Sec. 1.)

### 7.04.100 Statement of Entire Value of New Construction Required

It shall be unlawful for any Person to fail to state or to misstate the full Value of New Construction of any Improvement, Major Renovation, or Manufactured Dwelling. When any Person pays the tax, within the time provided for payment of the tax, there shall be a conclusive presumption, for purposes of computation of the tax, that the Value of New Construction of the Improvement, Major Renovation, or Manufactured Dwelling is the Value of New Construction as determined by the Building Official at the time of issuance of the building permit or installation permit. When any Person fails to pay the tax within the time provided for payment of the tax, the Value of New Construction constructed shall be as established by the Chief Operating Officer who may consider the Value of New Construction established by the Building Official but may consider other evidence of actual value as well.

(Ordinance No. 06-1115, Sec. 1.)

### 7.04.110 Intergovernmental Agreements

The Chief Operating Officer may enter into intergovernmental agreements with other local governments and jurisdictions to provide for the enforcement of this chapter and the collection and remittance of the Construction Excise Tax. The agreements may provide for the governments to retain no more than 5 percent (5%) of the taxes actually collected as reimbursement of administrative expenses, and also for the reimbursement of the government's reasonable, one time, start-up costs as set forth in the agreements.

(Ordinance No. 06-1115, Sec. 1.)

### 7.04.120 Rebates

(a) The Chief Operating Officer shall rebate to any Person who has paid a tax the amount of tax actually paid, upon the

## Exhibit A to Ordinance 18-1425

Person establishing that the tax was paid for Construction that is eligible for an exemption under Section 7.04.040.

(b) The Chief Operating Officer shall either rebate all amounts due under this section within 30 days of receipt of a complete application for the rebate or give written notice of the reasons why the application has been denied. Any denial of any application may be appealed as provided for in Section 7.04.140.

(Ordinance No. 06-1115, Sec. 1.)

### 7.04.130 Hearings Officer

The Chief Operating Officer shall appoint a hearings officer to conduct hearings related to enforcement or appeals of this chapter. All hearings shall be conducted in accordance with rules and regulations adopted by the Chief Operating Officer.

(Ordinance No. 06-1115, Sec. 1.)

### 7.04.140 Appeals

Any Person who is aggrieved by any determination of the Chief Operating Officer regarding liability for payment of the tax, the amount of tax owed, or the amount of tax that is subject to refund or rebate may appeal the determination in accordance with Section 7.04.130. All appeals must be in writing and must be filed within 10 days of the determination by the Chief Operating Officer. No appeal may be made unless the Person has first paid the tax due as determined by the Chief Operating Officer.

(Ordinance No. 06-1115, Sec. 1.)

### 7.04.150 Refunds

(a) Upon written request, the Chief Operating Officer shall refund any tax paid to the Person who paid the tax after that Person has established that Construction was not commenced and that any Building Permit issued has been cancelled as provided by law.

(b) The Chief Operating Officer shall either refund all amounts due under this section within 30 days of a complete application for the refund or give written notice of the reasons why the application has been denied. Any denial of any application may be appealed as provided for in Section 7.04.140.



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(Ordinance No. 06-1115, Sec. 1.)

### 7.04.160 Enforcement by Civil Action

The tax and any penalty imposed by this chapter constitutes a debt of the Person liable for the tax as set forth in Section 7.04.070 of this chapter and may be collected by the Chief Operating Officer in an action at law. If litigation is necessary to collect the tax and any penalty, the prevailing party shall be entitled to reasonable attorney fees at trial or on appeal. The Office of Metro Attorney is authorized to prosecute any action needed to enforce this chapter as requested by the Chief Operating Officer.

(Ordinance No. 06-1115, Sec. 1.)

### 7.04.170 Review

Review of any action of the Chief Operating Officer taken pursuant to this chapter, or the rules and regulations adopted pursuant thereto, 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.

(Ordinance No. 06-1115, Sec. 1.)

### 7.04.180 Failure to Pay - Penalty

In addition to any other fine or penalty provided by this chapter, failure to pay the tax within 15 days of the date of issuance of any Building Permit for any Improvement, Major Renovation, or installation permit for any Manufactured Dwelling shall result in a penalty equal to the amount of tax owed or fifty dollars (\$50.00), whichever is greater.

(Ordinance No. 06-1115, Sec. 1.)

### 7.04.190 Violation - Penalty

(a) In addition to any other civil enforcement provided herein, violation of this chapter shall be a misdemeanor and shall be punishable, upon conviction, by a fine of not more than five hundred dollars (\$500.00).

## Exhibit A to Ordinance 18-1425

(b) Violation of this chapter by any officer, director, partner or other Person having direction or control over any Person violating this chapter shall subject each such Person to such fine.

(Ordinance No. 06-1115, Sec. 1.)

### 7.04.200 Rate Stabilization

In order to protect against the cyclical nature of the construction industry and development patterns, the Council shall annually as part of the budget process create reserves from the revenues generated or expected to be generated by the Construction Excise Tax, which reserves are designed to protect against future fluctuations so as to promote stability in the funds needed to support required programs.

(Ordinance No. 06-1115, Sec. 1.)

### 7.04.210 Dedication of Revenue

Revenue derived from the imposition of this tax after deduction of necessary costs of collection shall be dedicated to fund regional and local planning that is required to make land ready for development ~~or redevelopment after inclusion in the Urban Growth Boundary.~~

(Ordinance No. 06-1115, Sec. 1.)

### 7.04.220 Procedures for Distribution

The Chief Operating Officer shall distribute the revenues from the Construction Excise Tax as grants to local governments based on an analysis of grant requests ~~submitted by the local jurisdiction which set forth the expected completion of certain milestones associated with Metro Code Chapter 3.07, the Urban Growth Management Functional Plan for planning or pre-development work that will implement the region's long range plan. Grants may also be distributed to private entities for projects that are endorsed by a local government and in the public interest.~~

(Ordinance No. 06-1115, Sec. 1; and Ordinance No. 09-1220, Sec. 2.)

### 7.04.225 Metro Administrative Fee

## Exhibit A to Ordinance 18-1425

Metro shall retain five percent (5%) of the taxes remitted to Metro for payment towards Metro's administrative expenses.

(Ordinance No. 09-1220, Sec. 2; and Ordinance No. 14-1328, Sec. 2.)

### ~~7.04.230 Sunset Provision~~

~~The Construction Excise Tax shall not be imposed on and no person shall be liable to pay any tax for any construction activity that is commenced pursuant to a building permit issued on or after December 31, 2020.~~

(Ordinance No. 06-1115, Sec. 1; Ordinance No. 09-1220, Sec. 2; and Ordinance No. 14-1328, Sec. 2.)

## STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO.18-1425, FOR THE PURPOSE OF REMOVING THE SUNSET PROVISION OF THE METRO CONSTRUCTION EXCISE TAX THAT FUNDS THE 2040 PLANNING AND DEVELOPMENT GRANT PROGRAM AND AMENDING OTHER PORTIONS OF METRO CODE CHAPTER 7.04

AND

IN CONSIDERATION OF RESOLUTION NO.18-4916, FOR THE PURPOSE OF APPROVING POLICY AND INVESTMENT FRAMEWORK FOR CYCLE 7 OF THE 2040 PLANNING AND DEVELOPMENT GRANT PROGRAM

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Date: November 14, 2018

Prepared by: Lisa Miles 503.797.1877  
Roger Alfred 503.797.1532

## BACKGROUND

### CET and Sunset Provision

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.

Originally conceived as a source of funding primarily for concept planning of land that had recently been brought into the urban growth boundary (UGB) in order to make it ready for development, the grant program has evolved over time to respond to current local and regional development priorities and changing regulatory frameworks. In later grant cycles, projects that removed barriers to infill development in existing urban areas already served by infrastructure were favored over planning of lands at the region's edge, where the lack of infrastructure had stalled development. During the most recent three grant rounds, funding has been specifically targeted for equitable housing as well as other types of planning and development projects designed to promote equity throughout the region.

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.

Since the program's inception, Metro has awarded over \$23.5 million in grants to local cities, counties, and other government entities. CET funding for this grant program provides a critical ongoing funding mechanism to support many essential and required planning activities necessary for jurisdictions to comply with land use regulations and to implement the region's long range vision.

#### **Ordinance 18-1425: Proposed Amendments to Metro Code Chapter 7.04**

Removal of the December 2020 sunset provision of the CET requires an ordinance to amend the Metro Code. Once the code has been amended, the COO has the authority to subsequently make revisions to the grant program's administrative rules without requiring further formal action by the Metro Council. In addition to removal of the sunset provision, edits to four other subsections of the code are proposed in order to more accurately reflect current program policies and facilitate program administration:

- 7.04.020 Policy and Purpose: update the language to better align with the current purpose of the grant program, which includes not only planning for new urban areas but also projects that facilitate infill development or redevelopment within the UGB.
- 7.04.040 Exemptions (a)(2): amend the eligible income threshold for affordable housing projects to receive an exemption from paying the CET; the threshold was raised from affordable units to be occupied by people with incomes less than 50% of median income to 60% of median income, which is a typical affordability level for projects to receive state tax credits.
- 7.04.040 Exemptions (a)(3): remove the specific numeric income threshold for recipients of charitable services; removed language stipulating that the projects had to be for providing charitable services to Persons with incomes lower than 50% of the median income in order to be exempt; amended language stipulates that the construction must be dedicated "for providing charitable services to disadvantaged people," which is a more practical requirement for many charities that do not require clients they are serving to provide proof of income.
- 7.04.210 Dedication of Revenue: update the language to better align with the current purpose of the grant program, which includes not only planning for new urban areas but also projects that facilitate infill development or redevelopment within the UGB.
- 7.04.220 Procedures for Distribution: update the language to reference implementation of the region's long range vision rather than the Urban Growth Management Functional Plan; add language to expand the range of eligible grant recipients to include other entities besides local governments, provided that the proposed project is endorsed by a local government and in the public interest; this may allow flexibility in future and spur innovative public-private partnerships.
- 7.04.230 Sunset Provision: delete section.

## Policy and Investment Framework and Performance in Recent Grant Cycles

Prioritization of CET funds to promote equity across the region has evolved as a key aspect of the grant program over the last three funding cycles. 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.

At the outset of Grant Cycle 5, to help address the region's continuing housing crisis, especially for people of color and low-income residents, Resolution 17-4782 established an investment emphasis targeting 50% of the grant funds in the cycle to fund equitable development projects. During that round, 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 Council passed Resolution 17-4846 awarding \$1.99 million in grant funds to 9 projects; \$984,000 or 49.5% of available funds were awarded to projects that had a strong emphasis on equitable development.

As part of the Strategy to Advance Racial Equity, Diversity and Inclusion adopted by Metro Council in Resolution No. 16-4708 in June 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. The investment framework established for Grant Cycle 6 was similar to the framework for Cycle 5 as far as funding targets, but provided further clarity about the types of projects that could be eligible for consideration in the Equitable Development funding category. For Cycle 7, this language has been further refined for clarity as shown below:

...funding 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 facilities or community investments** that will advance quality of life outcomes for marginalized communities, **including 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.~~

In Cycle 6, Metro received a total of 11 grant applications from nine jurisdictions requesting a combined total of \$2.3 million. Six of eleven projects requested funding in the Equitable Development Category

and five of the six requests were approved for full or partial funding, with a combined total of \$895,000 or 45% of Grant funds.

### **Proposed Policy and Investment Framework for Cycle 7**

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 recommend that the Council continue to target \$1 million in grant funding in Cycle 7 for projects that have an equitable development emphasis. Staff recommend that the Council target \$250,000 in funding for other qualified projects to facilitate development within the Urban Growth Boundary. Staff recommend that funding for concept planning projects in urban reserves and comprehensive planning of new urban areas be increased to \$750,000 in Cycle 7 for a combined total of \$2.00 million in available grant funding.

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 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 increase in Cycle 7 funding for concept planning and comprehensive planning is recommended because of the anticipated increase in applications for comprehensive planning by the four cities for the new urban areas that the COO has recommended for inclusion within the UGB. This comprehensive planning is necessary to meet the requirements of Urban Growth Management Functional Plan Title 11 for land added to the UGB. The COO's recommendation calls for grant funds to be allocated to King City to assist them with continued planning work including a market feasibility study for their proposed new town center. Increasing the available funds will enable Metro to follow through on this commitment to King City while also ensuring that a sufficient pool of funding is available for grants to other jurisdictions in the event that Metro receives multiple compelling grant applications in this funding category.

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 screening committee, the COO, and the Council will ultimately bring their own professional judgment and common sense to applying the grant 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.

## **ANALYSIS/INFORMATION**

### **1. Known Opposition**

It is possible that there may be opposition to the removal of the sunset provision of the CET and establish the 2040 Planning and Development Program as an ongoing program which Metro offers the region to support local planning and development.

The proposed policy and investment framework for Cycle 7 grants set forth in Resolution 18-4916 is similar to the framework set forth in prior grant cycles so opposition is not anticipated.

### **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, the program name, and established annual grant cycles and also set the investment targets for Cycle 5 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.
- Metro resolution 18-4863 set the investment targets for Cycle 6 to promote equitable development
- Metro resolution 18-4882 approved the Metro COO’s proposed amendments to the administrative rules in order to create a technical assistance program to support the 2040 Planning and Development Grants.
- Metro resolution 18-4902 awarded \$1.99 million in 2040 Planning and Development Grants, of which \$895,000 (45%) was awarded to equitable development projects.

### **3. Anticipated Effects**

Approval of the ordinance will remove the provision that currently require Metro to end collection of the Construction Excise Tax in 2020. With the removal of this provision, collection of the Construction Excise Tax would continue into the future until such time as the Metro Council determines it is no longer necessary or effective. The ordinance will also clarify the types of projects that may apply for exemption from paying the CET, clarify the purpose of the grants, and allow other entities to apply for grants if they are proposing a project in the public interest which has been endorsed by a local government.

Approval of the resolution will continue Metro Council’s policy and investment emphasis for grant funding to support equitable development by earmarking \$1 million 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.

**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**

None.

**RECOMMENDED ACTION**

The Chief Operating Officer recommends adoption of the ordinance to amend chapter 7.04 of the Metro Code to remove the sunset provision of the Construction Excise Tax

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.