

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE)	RESOLUTION NO. 21-5189
CHIEF OPERATING OFFICER TO EXECUTE A)	
SHORT-TERM INTERGOVERNMENTAL)	Introduced by Chief Operating Officer
REVENUE SHARING AGREEMENT WITH)	Marissa Madrigal with the Concurrence of
MULTNOMAH, WASHINGTON, AND)	Metro Council President Lynn Peterson
CLACKAMAS COUNTIES TO IMPLEMENT THE)	
METRO SUPPORTIVE HOUSING SERVICES)	
PROGRAM)	

WHEREAS, on February 25, 2020, the Metro Council referred to the Metro area voters a personal and business income tax for the purposes of funding Supportive Housing Services in the Metro region (the “Supportive Housing Services Measure”); and

WHEREAS, on May 19, 2020, the Metro Area voters approved the Supportive Housing Services Measure, which was later codified in Metro Code Chapters 11.01, 7.05, 7.06 and 7.07; and

WHEREAS, the Supportive Housing Services Measure was designed to allow allocation of the Supportive Housing Services funds to Multnomah, Clackamas, and Washington Counties (collectively, “the Counties”) via an intergovernmental agreement (IGA) that would govern the disbursement and uses of the funds; and

WHEREAS, although Metro and the Counties have begun negotiations for the Supportive Housing Services IGA, negotiations are not complete and will not be complete before the beginning of the 2021-22 fiscal year, which begins on July 1; and

WHEREAS, the Counties have already incurred certain expenses and costs associated with providing supportive housing services and building administrative and staffing capacity to provide the supportive housing services consistent with Metro Code § 11.01.050; and

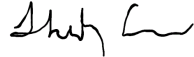
WHEREAS, in order to provide the Counties and our unhoused neighbors with needed Supportive Housing Services funding to begin offering supportive housing services on or after July 1, it is necessary for Metro and the Counties to enter into a Short-Term Revenue Sharing Agreement; and

WHEREAS, this Short-Term Revenue Sharing Agreement attached as Exhibit A will expire on October 1, 2021, unless all parties mutually agree to extend it if necessary; and

WHEREAS, this Short-Term Revenue Sharing Agreement requires the Counties to spend any funding received from Metro in accordance with each county’s Metro-approved Local Implementation Plan; now therefore,

BE IT RESOLVED that the Metro Council authorizes the Chief Operating Officer to execute the Short-Term Revenue Sharing Agreement with Multnomah, Clackamas, and Washington Counties that is attached as Exhibit A to implement The Metro Supportive Housing Services Program.

ADOPTED by the Metro Council this 29th day of June 2021.



Shirley Craddick, Deputy Council President

Approved as to Form:



Carrie MacLaren, Metro Attorney

REVENUE SHARING AGREEMENT

This REVENUE SHARING AGREEMENT ("Agreement") is by and between Metro Regional Government, a municipal corporation of the state of Oregon ("Metro"); Clackamas County, a political subdivision of the state of Oregon ("Clackamas"); Multnomah County, a political subdivision of the state of Oregon ("Multnomah"); and Washington County, a political subdivision of the state of Oregon ("Washington"). Washington, Multnomah, and Clackamas each are a "County" and are collectively referred to as the "Counties"; all parties to the Agreement are a "Party" and they are collectively referred to as the "Parties".

Recitals

WHEREAS, on February 25, 2020, the Metro Council adopted Ordinance No. 20-1442, which imposed business and personal income taxes (the "Income Taxes") to fund a supportive housing services program based on its finding that areas within Metro's jurisdictional boundary (generally, the urbanized areas of Multnomah, Washington, and Clackamas counties) face a severe housing affordability and homelessness crisis that endangers the health and safety of thousands of Metro's unhoused neighbors; and

WHEREAS, also at the Metro Council meeting on February 25, 2020, the Metro Council adopted Resolution 20-5083, which referred Ordinance No. 20-1442 to voters within the Metro jurisdictional boundary for approval. The Multnomah County Elections Division designated Ordinance No. 20-1442 as Ballot Measure 26-210 (the "Measure"), and it was placed on the May 19, 2020, primary election ballot (within Metro's jurisdictional boundary); and

WHEREAS, On May 19, 2020, the Metro area voters approved the Measure, thereby approving Ordinance No. 20-1442; and

WHEREAS, the ballot title to the Measure "direct[ed] regional funding to local services agencies, require[d] community engagement to develop localized implementation plans[, and] ... [a]llocate[d] funds to counties by estimated revenue collected [from the Income Taxes] within each county ..."; and

WHEREAS, and as more specifically set forth below, the Agreement sets forth the Parties' understanding that Metro will allocate funding from the Income Taxes to the Counties to pay for supportive housing services consistent with each County's Metro-approved Local Implementation Plan to allow the Parties more time to work on a comprehensive intergovernmental agreement for the that funding (the "SHS IGA"); and

WHEREAS, the Parties have agreed to the Term, defined below, that provides them with additional time to negotiate their respective SHS IGAs, which they plan to collectively negotiate and execute, and, upon mutual agreement, may further extend the Term if additional time is required.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, hereby covenant and agree as follows:

Agreement

1. **Recitals Incorporated.** All of the foregoing Recitals are true and correct and are incorporated herein as part of the Agreement for all purposes.
2. **Effective Date; Term.** Upon approval by the Metro Council and the boards of commissioners for each of the Counties, the Agreement shall be effective on July 1, 2021 ("Effective Date"). The Agreement shall run from the Effective Date until the earlier of October 1, 2021, or full execution of a SHS IGA by a County, unless otherwise terminated by a Party as provided in **Section 5** (the "Term"). To avoid ambiguity, the Parties recognize that any particular County may fully execute its own SHS IGA with Metro before the other Counties do so and at any time. Upon a County fully executing its own SHS IGA with Metro (including approval of that IGA by both Metro Council and the county's board of commissioners), then the Term of this Agreement shall end with respect to that Party and that Party's obligations with respect to use of Income Taxes shall be fully captured in its SHS IGA.
3. **Obligation of Metro.** Commencing July 1, 2021, and quarterly during the Term or any extension thereof, Metro will allocate to the Counties the Program Funds, defined below, collected from the Income Taxes as follows: 21.3% to Clackamas County, 45.3% to Multnomah County, and 33.3% to Washington County. Metro may only allocate funding to a County that has a Metro-approved Local Implementation Plan. As described in more detail in **Section 4**, revenue from the Income Taxes allocated to the Counties under the Agreement shall only be used for supportive housing services consistent with the terms of that County's Metro-approved Local Implementation Plan and this Agreement.

As used herein, "Program Funds" means Income Tax revenue, minus Metro's administrative and collection costs, available to a County under the Agreement.

4. **Obligations of Counties.** The Counties shall use the funding received from Metro under the Agreement only for supportive housing services and as consistent with the terms of the Metro-approved Local Implementation Plan. The Counties agree that their use of the allocated Income Tax revenues also will be subject to the terms of the SHS IGA when it is executed by the Parties.
 - a. **Spending On Initial SHS Costs.** Anticipating receipt of Income Taxes revenue, the Counties have incurred certain expenses and costs associated with providing supportive housing services and building administrative and staffing capacity to provide the supportive housing services consistent with Metro Code § 11.01.050 ("Initial Costs"). The Counties may pay for Initial Costs through transfers of funds, loans, or other forms of financing until sufficient Income Tax revenue is received by Metro and allocated to the Counties under the Agreement. By execution of this Agreement, Metro expressly agrees that the Counties may use funds received from Metro under this Agreement for repayment of Initial Costs. Metro further agrees that the Initial Costs shall not be considered a part of the Counties' existing supportive housing services program for purposes of the Measure's prohibition against displacement of funds currently provided.

5. **Termination.** The Agreement may be terminated: (a) at any time by mutual written agreement of the Parties; or (b) at any time after a Party has failed to cure a breach of the Agreement after receiving 30 days written notice from the non-breaching Party. To avoid ambiguity, a termination under subsection (b) of this section affects only the Party that has failed to cure a breach of the Agreement. The Agreement shall remain in place for all other Parties in the event of a breach by and termination of one Party. Unless

extended by written mutual agreement of the Parties, the Agreement shall terminate at the end of the Term.

6. **Entire Agreement.** This Agreement contains the entire agreement between the Parties with regard to the matters set forth in it, and any prior negotiations and understandings between the Parties have been merged herein. This Agreement may not be altered, amended, modified or otherwise changed in any respect whatsoever, except by a writing signed by each Party, as provided in **Section 9**. The terms of this Agreement are contractual and not a mere recital.

7. **No Assignment; Successors; Third-Party Beneficiaries.** No Party may assign its interest in the Agreement to a third-party without the prior written consent of the other Parties. The Agreement shall be binding upon and inure to the benefit of the Parties hereto jointly and severally and the heirs, executors, representatives, successors, predecessors and assigns of each. This Agreement shall be enforceable only by each Party in its own right and shall not be enforceable by any person or entity. Nothing contained in this Agreement is intended to or shall confer any rights, benefits, remedies, or entitlements upon any person or entity other than the Parties.

8. **Mutual Preparation.** This Agreement, in all respects, shall be deemed and construed to have been prepared mutually and equally by all of the Parties. No uncertainty or ambiguity herein shall be construed against any Party.

9. **General.** Each Party represents and warrants that it has the power and authority to enter into and perform the Agreement. No modifications or amendment of this Agreement shall be binding unless contained in a writing signed by the Party to be bound thereby and no waiver, promise or representation by a Party shall be binding thereon unless contained in a signed writing. Except as otherwise provided above, the Agreement may only be amended or supplemented by a writing that: (a) is signed by a duly authorized representative of all Parties; (b) clearly recites the Parties' understanding and intent to amend the Agreement; and (c) clearly and with specificity describes the terms to be amended or supplemented. Any notice given hereunder must be in writing, which shall be deemed effective upon deposit in the U.S. mail, postage prepaid, if addressed to a Party at its address of record. If any part of this Agreement shall be deemed invalid, illegal, or unenforceable to any extent, the provision shall be construed to be enforceable to the fullest extent possible, and the remainder of the Agreement shall not be affected and shall be enforceable.

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**REVENUE SHARING AGREEMENT
Signature Page**

The Agreement may be executed in multiple counterparts and may be electronically signed. Any verified electronic signatures appearing on the Agreement are the same as handwritten signatures for the purposes of validity, admissibility, and enforceability. Any reproduction of the Agreement made by reliable means is considered an original.

Metro

Clackamas County

By: _____

By: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Office of Metro Attorney Review:

Reviewed: CARRIE MACLAREN, ATTORNEY FOR METRO

Clackamas County Attorney Review:

Reviewed: STEPHEN MADKOUR, COUNTY ATTORNEY FOR CLACKAMAS COUNTY, OREGON

By: _____

Assistant Metro Attorney

By: _____

Assistant County Attorney

Date: _____

Date: _____

Multnomah County

Washington County

By: _____

By: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Multnomah County Attorney Review:

Reviewed: JENNY M. MADKOUR, COUNTY ATTORNEY FOR MULTNOMAH COUNTY, OREGON

Washington County Attorney Review:

Reviewed: TOM CARR, COUNTY ATTORNEY FOR WASHINGTON COUNTY, OREGON

By: _____

Assistant County Attorney

By: _____

Assistant County Attorney

Date: _____

Date: _____

IN CONSIDERATION OF:

RESOLUTION NO. 21-5189, FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO EXECUTE A SHORT-TERM INTERGOVERNMENTAL REVENUE SHARING AGREEMENT WITH MULTNOMAH, WASHINGTON, AND CLACKAMAS COUNTIES TO IMPLEMENT THE METRO SUPPORTIVE HOUSING SERVICES PROGRAM

Date: June 22, 2021
Department: Planning & Development
Meeting Date: June 29, 2021

Prepared by: Craig Beebe,
craig.beebe@oregonmetro.gov
Presenter: Patricia Rojas, Regional
Housing Director
Length: 10 min.

ISSUE STATEMENT

On May 19, 2020, greater Portland voters approved Measure 26-210, establishing Metro's regional supportive housing services program to address the region's homelessness crisis, and help individuals and families find and keep safe, stable, affordable housing across the region.

This program brings a groundbreaking level of regional coordination and scale to address this regionwide challenge between Metro and Local Implementation Partners. Each of the Metro area's three counties developed a Local Implementation Plan through inclusive engagement with community and local practitioners, analysis of local conditions and needs, and developing a framework for planned investments. As required for the counties to receive funding from the regional measure, these plans have now been approved by the Metro Council per the recommendation of the Regional Oversight Committee.

Local Implementation Plans will be incorporated into intergovernmental agreements with each Local Implementation Partner, along with agreements concerning other matters of program implementation, transfer of funds, and ongoing oversight, accountability and management.

It is critical for these agreements to provide a pathway to successful partnership and program implementation over the next 10 years. As final negotiations for longer-term agreements advance, a short-term revenue sharing agreement will allow Supportive Housing Services measure funding distribution to begin to counties, and program investments to begin on July 1, 2021.

ACTIONS REQUESTED

- Approve Resolution No. 21-5189 to authorize the execution of a short-term intergovernmental revenue sharing agreement (Exhibit A to the resolution) with the three Local implementation partners for the supportive housing services measure.

IDENTIFIED POLICY OUTCOMES

As described in Metro Code Chapter 11.01.100, "Implementation Intergovernmental Agreements with each Local Implementation Partner will specify how Supportive Housing Services tax collections will be released. Agreements will include specifications for annual program budgets, financial reporting, and practices for reserving funds, and redistribution of funds if a jurisdiction fails to comply with the Agreement."

The Metro Council has an inherent interest, as do our county partners, in ensuring these agreements fully advance the requirements of the measure, expectations of voters, and the outcomes communities seek over the ten-year implementation of the measure.

At the same time, Council and our county partners seek to have program investments begin as soon as possible, following extensive community and stakeholder engagement, analysis, review and approval of Local Implementation Plans by the Metro Council.

A short-term revenue-sharing agreement, built on the framework of these Local Implementation Plans, will allow program investments to launch on time – advancing the interests and needs of Council, county partners, and the community – while allowing for negotiations to continue on full intergovernmental agreements that will govern program administration over the long term. Staff will brief council on negotiations this summer and bring to council for a vote in late summer or early fall.

POLICY OPTIONS FOR COUNCIL TO CONSIDER

Through the adoption of this Resolution, the Metro Council authorizes the Metro COO and staff to execute a short-term intergovernmental revenue sharing agreement with the three counties, in effect allowing transfer of program funds and the beginning of services as described in each county's Local Implementation Plan.

If the Metro Council does not adopt the resolution, it may direct staff to work with county counterparts to resolve any issue(s) of concern. This will lead to a delay in program launch.

STAFF RECOMMENDATION

Staff recommends that Council adopt the Resolution.

STRATEGIC CONTEXT & FRAMING COUNCIL DISCUSSION

Approval of this resolution represents a significant milestone for launching the Supportive Housing Services program, after more than 13 months of dedicated work following the passage of the measure in May 2020.

During these months, the Metro Council, staff and partners have, among other activities and accomplishments:

- convened a Stakeholder Advisory Table in summer 2020, to provide guidance on key outcomes and the program work plan;
- convened a Tax Advisory Table to advise on the collection of the business and personal income taxes that fund the program;
- entered into an intergovernmental agreement with the City of Portland to collect these taxes, and begun tax collection;
- completed and adopted a Regional Work Plan and Metro Code to guide implementation of the program.
- chartered and seated a Regional Oversight Committee in full partnership with local implementation partners, and convened seven meetings of the committee;
- reviewed three Local Implementation Plans and worked with the Regional Oversight Committee to review them for Metro Council approval, following many hours of inclusive engagement and analysis on the part of the Local Implementation Partners;
- collaborated to develop key matters of regional implementation including a regional long-term rent assistance program, outcomes and data collection, and programming.

Our partners are ready to proceed, and Metro is prepared to work collaboratively with them to deliver services desperately needed by people experiencing or at risk of homelessness throughout the region; the broader outcomes desired by communities, particularly BIPOC communities and those on the front lines of this crisis; and the accountability the region's voters demand and deserve. Adoption of the resolution allows program launch to proceed expediently and with accountability, as longer-term implementation agreements are finalized.

BACKGROUND

Negotiation of intergovernmental agreements has proceeded in earnest since April 2021, with several steps of review among program and legal staff at each of the local implementation partners and Metro. The approval of Local Implementation Plans was a key milestone in this process, as these plans form the backbone of program implementation.

The short-term revenue sharing agreements include the following agreement areas between Metro and Local Implementation Partners, including but not limited to:

- Term limit of October 1
- Obligations for Metro and counties
- Allocation percentage by county
- Terms for spending tax revenue
- Termination

Upon agreement to the terms by program and legal staff at Metro and each of the Local Implementation Partners, the short-term revenue sharing agreement was finalized for consideration by each partner's governing body (county boards of commissioners) and the Metro Council.

ATTACHMENTS

- Resolutions No. 21-5189

- Exhibit A: Short-Term Intergovernmental Revenue Sharing Agreement between Metro and the three Local Implementation Partners