

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE)	RESOLUTION NO. 22-5238
CHIEF OPERATING OFFICER TO EXECUTE)	
SUPPORTIVE HOUSING SERVICES)	Introduced by Chief Operating Officer
INTERGOVERNMENTAL AGREEMENTS WITH)	Marissa Madrigal with the Concurrence of
MULTNOMAH, CLACKAMAS, AND)	Metro Council President Lynn Peterson
WASHINGTON 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 (“SHS”) in the Metro region (the “Supportive Housing Services Measure” or “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 established a ten-year program under which Metro would allocate and oversee Supportive Housing Services funds to local government partners for the purpose of expanding, coordinating, and providing services to address homelessness within the Metro region; and

WHEREAS, Metro Code Section 11.01.060 requires local government partners to prepare a Local Implementation Plan, describing the local housing and homeless service needs, current programming and unmet programming capacities, and proposed use of funds; and

WHEREAS Clackamas, Multnomah, and Washington counties (collectively, “the Counties”) have each prepared and adopted a Local Implementation Plan, which plans were approved by the Metro Council in Resolution No. 21-5171 (Multnomah County), Resolution No. 21-5172 (Washington County), and Resolution No. 21-5173 (Clackamas County), as required by Metro Code Section 11.01.070; and

WHEREAS, in June 2021, Metro and the Counties entered into a Short-Term Revenue Sharing IGA that authorized Metro to disburse SHS funds before final execution of a Supportive Housing Services IGA, and the Short-Term Revenue Sharing IGA expires on January 31, 2022; and

WHEREAS, Metro Code Section 11.01.100(b) requires disbursement of funds to the Counties via an intergovernmental agreement (IGA), and it further states that the IGA “will include specifications for annual program budgets, financial reporting, practices for reserving funds, and redistribution of funds if a jurisdiction fails to comply with the agreement”; and

WHEREAS, Metro, Multnomah County, Clackamas County, and Washington County (the “Parties”), collaboratively drafted an IGA template for each county to separately execute with Metro; and

WHEREAS, the IGA template complies with Metro Code Section 11.01.100, honors the spirit and intent of the Measure, and defines the relationships and responsibilities between the Parties for the duration of the program; and

WHEREAS, the Parties have reached agreement on the terms of their respective Supportive Housing Services IGAs; and

WHEREAS, the SHS IGAs detail the process through which Metro will continue to provide oversight over the Supportive Housing Services program to ensure that distributed funds are appropriately and transparently spend in accordance with each County's Local Implementation Plan and annual work plan; and

WHEREAS, the Metro Council now desires that the Chief Operating Officer execute the three separate SHS IGAs with each county; now therefore,

BE IT RESOLVED that:

1. The Metro Council authorizes the Chief Operating Officer to execute a Supportive Housing Services Intergovernmental Agreement with Multnomah County to implement the Metro Supportive Housing Services Program in a form and under terms substantially similar to the draft SHS IGA attached as Exhibit A.
2. The Metro Council authorizes the Chief Operating Officer to execute a Supportive Housing Services Intergovernmental Agreement with Clackamas County to implement the Metro Supportive Housing Services Program in a form and under terms substantially similar to the draft SHS IGA attached as Exhibit B.
3. The Metro Council authorizes the Chief Operating Officer to execute a Supportive Housing Services Intergovernmental Agreement with Washington County to implement the Metro Supportive Housing Services Program in a form and under terms substantially similar to the draft SHS IGA attached as Exhibit C.

ADOPTED by the Metro Council this 13th day of January 2022.



Lynn Peterson, Council President

Approved as to Form:



Carrie MacLaren, Metro Attorney

**SUPPORTIVE HOUSING SERVICES
INTERGOVERNMENTAL AGREEMENT**

This SUPPORTIVE HOUSING SERVICES INTERGOVERNMENTAL AGREEMENT ("Agreement") is made by and among Multnomah County, a political subdivision of the state of Oregon ("Partner"), and Metro Regional Government, a municipal corporation of the state of Oregon ("Metro"), each a "Party" and collectively as "Parties". Capitalized terms used in the Agreement are defined in **Section 1**.

RECITALS

- A. On February 25, 2020, the Metro Council adopted Ordinance No. 20-1442, which imposed business and personal 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;
- B. Also at the Metro Council meeting on February 25, 2020, the Metro Council adopted Resolution 20-5083, which referred the business and personal income taxes in 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, and it was placed on the May 19, 2020, primary election ballot;
- C. On May 19, 2020, the Metro area voters approved the Measure, thereby approving the business and personal income taxes in Ordinance No. 20-1442;
- D. The ballot title to the Measure "direct[s] regional funding to local services agencies, require[s] community engagement to develop localized implementation plans[, and] ... [a]llocate[s] funds to counties by estimated revenue collected [from the Income Taxes] within each county ...";
- E. On December 17, 2020, Metro codified the Income Taxes in new Metro Code Chapters 7.05, 7.06, and 7.07, the programmatic elements of the Measure in Metro Code Chapter 11.01, and the Regional Oversight Committee elements in the new Metro Code Section 2.19.280; provided, however, that nothing herein will be construed as an admission that the Counties are subject to Metro Code;
- F. The Measure at Section 6 provides that each County in the Region will work with Services Providers and community partners to develop and implement programs that respond to the unique needs in their communities, as outlined in their Local Implementation Plan, and that Counties will invest SHS Revenue to achieve program goals and demonstrate outcomes (also as defined by its Local Implementation Plan), and to achieve goals and metrics for the Region once they are established by the TCPB;
- G. On April 29, 2021, the Metro Council approved Partner's Local Implementation Plan, which was enacted in accordance with the requirements of the Measure;

- H. The Income Taxes became effective on January 1, 2021. Metro began receiving initial tax revenue in Spring of 2021;
- I. The Measure contemplates that Metro will receive SHS Revenue and then disburse it to the Counties throughout the tax year, not including the amounts reasonably needed by Metro for the cost of tax collection and administration;
- J. The Parties both interpret the reference to “funds provided for Supportive Housing Services by [a] local government” found in the Measure at Section 9 to refer to “unrestricted” funds, such as revenue collected by a County from local option taxes and budgeted by that County for SHS, and to not refer to “restricted” funds, such as funds provided under federal or state grant programs, borrowed funds, or funds received from one or more third-parties under contract;
- K. Before the Parties executed this Agreement, Metro and the Counties executed a Revenue Sharing Agreement, and four extensions to that agreement, under which Metro began allocating funds from the Income Taxes to the Counties to pay for Supportive Housing Services consistent with each of the County’s Metro-approved Local Implementation Plan to allow them more time to negotiate this Agreement;
- L. The Revenue Sharing Agreement will be terminated on the earlier of this Agreement’s Effective Date or January 31, 2022;
- M. As of the Effective Date, Metro is party to a validation action in the Oregon Court of Appeals (Case No. A176666), which was appealed from a ruling in Multnomah County Circuit Court (Case No. 20CV46617) (the “Validation Action”), in which Metro prevailed. In this Validation Action, certain respondents have challenged Metro’s home rule authority to administer the Income Taxes in a particular manner, primarily how income is sourced. If the respondents are ultimately successful, a court may require Metro to administer the Income Taxes in a different manner, which could affect the individuals and businesses required to pay the taxes and the amounts received by Metro from the Income Taxes. Although any such ruling should not affect the obligations of Partner or the validity of the SHS taxes, the Parties understand that there may be some disbursement disruptions if Metro is required to change the way it administers the Income Taxes, which could include refunds of previously paid Income Taxes. The Parties will work collaboratively to mitigate any disruption; and
- N. As more specifically set forth below, the Agreement sets forth the Parties’ understandings and agreements regarding the use by the Counties of the Income Taxes to pay for supportive housing services consistent with Partner’s Local Implementation Plan.

NOW, THEREFORE, the Parties agree as follows:

AGREEMENT

1. DEFINITIONS.

- 1.1. “Administrative Costs” means those costs for goods or services that benefit Partner’s delivery of SHS as a whole and cannot be attributed specifically to a particular program, as further described in **Section 3.4.2**.
- 1.2. “Administrative Expenses” means Metro’s costs to administer and oversee the SHS program, as more specifically described in **Section 3.4.1**.
- 1.3. “Agreement” means this Supportive Housing Services Intergovernmental Agreement.
- 1.4. “Annual Program Report” means the annual report prepared and presented by Partner as set forth in **Section 7.1.1**.
- 1.5. “Annual Program Budget” means the annually-prepared budget detailing Partner’s Budgeted Program Funds for a designated Fiscal Year, as set forth in **Section 5.5.2**.
- 1.6. “Annual Work Plan” means the annually-prepared plan detailing Partner’s plans for SHS programming in a designated Fiscal Year, as set forth in **Section 5.3**.
- 1.7. “Budgeted Program Funds” means Program Funds anticipated to be received by Partner in a Fiscal Year, as forecast by the Metro CFO in consultation with FRT members, off which Partner’s Annual Program Budget is based. These may include funds budgeted for Partner’s Regional Strategy Implementation Fund, a contingency reserve described in **Section 5.5.5**, and its Administrative Costs, in addition to funds budgeted for programmatic purposes.
- 1.8. “CFO” means a Party’s Chief Financial Officer.
- 1.9. “Corrective Action Plan” or “CAP” means the process and document developed by the Parties to achieve desired SHS program outcomes after it is determined that Partner is not meeting its programming or financial obligations, as set forth in **Section 6.3.5**.
- 1.10. “Counties” means, collectively, the state of Oregon municipal subdivisions of Clackamas, Multnomah, and Washington counties.
- 1.11. “County” means any one of the state of Oregon municipal subdivisions of Clackamas, Multnomah, and Washington counties.
- 1.12. “Effective Date” means the date the Agreement is executed by the Parties.
- 1.13. “Executive Committee” means the body comprised of representatives from the Counties and Metro and tasked with addressing ongoing and specific SHS program implementation improvement needs, as further provided in **Section 8.1**.
- 1.14. “Financial Review Team” or “FRT” means the CFOs for the Counties and Metro, as more specifically described in **Section 6.2**.
- 1.15. “Fiscal Year” or “FY” means the twelve-month period beginning July 1 and continuing through June 30.

- 1.16. “Income Taxes” mean the personal and business income taxes levied by Metro under Metro Code Chapters 7.06 and 7.07, which were approved by the voters in the Measure.
- 1.17. “Local Implementation Plan” or “Plan” means the Partner document that establishes the proposed use of Program Funds and how these uses align with the purposes of the SHS program and Measure, approved by Metro Council and attached as **Exhibit 2**.
- 1.18. “Material Plan Amendment” means a revision to a Metro Council-approved Local Implementation Plan that changes its guiding values, or significantly changes its goals, practices, or investment priorities.
- 1.19. “Measure” is Ballot Measure 26-210, which was approved by voters on May 19, 2020. A copy of the Measure is attached to the Agreement as **Exhibit 1**.
- 1.20. “Metro SHS Work Plan” means Metro’s SHS Work Plan adopted by the Metro Council by Resolution 20-5148 on December 17, 2020, and as amended from time to time. A copy of the Metro SHS Work Plan is attached to the Agreement as **Exhibit 3**.
- 1.21. “Program Funds” means funds available to a Local Implementation Partner, which generally consists of the SHS Revenue minus Metro’s Administrative Expenses.
- 1.22. “Quarterly Progress Report” means the report prepared and presented by Partner as set forth in **Section 7.1.2**.
- 1.23. “Records” means information prepared, owned, used, or retained by a Party, and pertaining to their respective operations and business related to the Agreement that is inscribed on a tangible medium commonly a document, or that is stored in an electronic or other medium and is retrievable in perceivable form.
- 1.24. “Region” means the territory within the Metro jurisdictional boundary as it exists on the Effective Date and any territory later annexed or subjected to Metro governance under state law.
- 1.25. “Regional Strategy Implementation Fund” means a fund created and held by each County for investment in regional goals, strategies, and outcomes identified by the TCPB and as described in **Section 8.3.3**.
- 1.26. “Regional Oversight Committee” or “ROC” means the committee that provides programmatic guidance, monitors programmatic expenditures and evaluates outcomes of the SHS program.
- 1.26.1. “ROC Charter” means the document, initially attached to the Metro SHS Work Plan as Addendum B, as may be subsequently amended.
- 1.27. “Services Providers” are local housing authorities, cities, and the Counties, to the extent that they provide SHS, and those third-party organizations that Partner contracts with to provide SHS.
- 1.28. “SHS Revenue” means all funds received from the taxes imposed by Metro Code Chapters 7.06 and 7.07 (including delinquent interest and penalties) collected in a given tax year.

- 1.29. “Stabilization Reserve” means a fund created under **Section 5.5.3** to provide funding for Budgeted Program Funds in future years if actual Program Funds fall below budgeted estimates.
- 1.30. “Supportive Housing Services” or “SHS” means homeless prevention, support services and rent assistance that stabilize people experiencing homelessness and housing instability, as further described in the Metro SHS Work Plan and the Measure at Section 4.
- 1.31. “Tri-County Planning Body” or “TCPB” means a body of stakeholders and technical experts convened to develop and implement the Tri-County Plan that will be responsible for identifying regional goals, strategies, and outcome metrics related to addressing homelessness in the Region.
- 1.31.1. “TCPB Charter” means the document agreed to between Metro and the Counties that sets forth the Parties’ performances, rights, and obligations, with respect to the TCPB; the functions of the TCPB; and the manner and practices that describe how the TCPB will operate and be governed.
- 1.32. “Tri-County Plan” is the regional plan prepared by the TCPB that will identify regional goals, strategies, and outcome metrics related to addressing homelessness in the Region.
2. EFFECTIVE DATE, TERM, EXTENSION, TERMINATION. The Agreement is effective as of the Effective Date and continues through June 30, 2031 (“Term”). The Parties may by mutual agreement extend the term of this Agreement beyond June 30, 2031.
- 2.1. TERMINATION. The Parties may jointly terminate this Agreement if they determine that such action is in the public interest. Termination under this provision is effective only upon the mutual, written termination agreement signed by both the Parties. Subject to any negotiated and agreed upon wind down provisions, including those in **Section 2.2**, this Agreement is automatically terminated within 90 days of any of the following:
- 2.1.1. The effective date of any repeal of the Measure by Metro voters;
- 2.1.2. The effective date of any amendment to the Measure by Metro voters, if the amendment invalidates or is otherwise in conflict with a material term of the Agreement and where the conflict effectively invalidates the Parties’ agreement; or
- 2.1.3. A final ruling by a court of last resort that the imposition or collection of the Income Taxes is invalid. This subsection does not apply to any lower court ruling or any ruling that does not invalidate the entire SHS program, including the Income Taxes.
- 2.1.4. If this Agreement is terminated, the Parties will collaboratively develop a plan for an orderly wind-down of the SHS program as set forth in **Section 2.2**. Unless otherwise agreed between the Parties, Partner must deliver to Metro within 60 days

of the termination date all unobligated Program Funds, required reports, and financial data.

The obligations set forth in **Section 9**, and the right in **Section 5.5.4**, survive the expiration or earlier termination of this Agreement, as does Partner's ability to spend down Program Funds where: (a) Partner committed to spend the funds under a contract signed prior to termination; (b) the contract's SHS-related performances extend beyond Agreement termination; and (c) Partner has budgeted to meet the payment requirement(s) with SHS funds.

- 2.2. **WIND-DOWN**. The Parties expressly acknowledge and agree that even after a termination or expiration of the Term of the Agreement, Metro may collect Income Taxes and allocate Program Funds to Partner. As a result, the Parties agree to the following wind-down process following termination or expiration of the Term of the Agreement:
 - 2.2.1. **PROCESS**. The Parties will collaboratively develop a plan for an orderly wind-down of the SHS program with the goal of mitigating the impact that Agreement termination could have on the individuals served by the SHS program and on the Services Providers reliant on Program Funds. Each Party shall bear its respective costs associated with wind-down planning and each will work cooperatively with the other Party in the coordination of efforts. The planning will also identify and address any ongoing program reserve needs (such as for contractual, project-based rent assistance requirements), return of unobligated funds, personnel, capital equipment, workload and any other issues related to winding-down the SHS program.
 - 2.2.2. **REASONABLE EFFORTS TO AVOID PROGRAM DISRUPTION**. If the Agreement terminates, regardless of the reason, the Parties will make reasonable efforts to prevent undue harm to the Regional homeless services systems, structures, and to those receiving SHS at the time of the termination. The Parties will make reasonable efforts to ensure that such Partner obligations are met in the event the Agreement is terminated.
 - 2.3. **SUSPENSION**. In the event Metro receives notice of an actual or threatened lawsuit challenging the validity of the Income Taxes, the Parties will work in good faith to minimize the impacts of that lawsuit on current SHS programs. In the event a court of competent jurisdiction issues a judgment that the Income Taxes are invalid, Metro may suspend disbursements of Program Funds to the minimum amount necessary to comply with the applicable court order and, to the maximum extent practicable, avoid SHS program disruption as set forth in **Section 2.2.2**.
3. **INCOME TAX COLLECTIONS, ALLOCATIONS, ADMINISTRATION**.
 - 3.1. **LEVY, COLLECT INCOME TAXES**. Except as otherwise provided in **Section 2.2**, for so long as there are uncollected Income Taxes, Metro will collect, or contract with a third-

party to collect, the Income Taxes unless Metro determines that collection is not financially prudent.

- 3.2. PROGRAM FUNDS DISBURSEMENTS. After the Effective Date Metro will disburse Program Funds to Partner on a monthly basis. Partner recognizes that Metro cannot guarantee any specific disbursement amount given the uncertainties regarding the amount of revenue that Metro will ultimately collect in any given year from the Income Taxes. Unless adjusted according to **Section 3.3** or **Section 3.5**, Metro will allocate Program Funds to the Counties as follows: 21 1/3% to Clackamas County, 45 1/3% to Multnomah County, and 33 1/3% to Washington County.
- 3.3. PROGRAM FUNDS ALLOCATIONS ADJUSTMENT. After FY 2022-23, the Counties and Metro will work cooperatively to establish a process for a review of the allocation percentages in **Section 3.2**.
- 3.4. ADMINISTRATION.
- 3.4.1. ADMINISTRATIVE EXPENSES. After Metro's Income Tax collection expenses are paid, Metro may retain up to 5% of the remaining funds to pay the expenses to disburse the funds and administer and oversee the program. This includes the expenses to convene and support the ROC and TCPB; establish a regional homeless data collection and reporting program; support tri-county regional collaboration; and fund audit expenses. The Parties also agree that Metro cannot use Administrative Expenses to deliver SHS.
- 3.4.2. ADMINISTRATIVE COSTS. Partner may use Program Funds to pay for its Administrative Costs. Metro recommends, but does not require, that in a given Fiscal Year Administrative Costs should not exceed: for SHS, 5% of annual Program Funds allocated to Partner, consistent with guidelines for similar programs funded by the state of Oregon; and, for administering long-term rent assistance programs, 10% of annual Program Funds allocated by Partner for long-term rent assistance, consistent with guidelines for similar programs funded by the U.S. Department of Housing and Urban Development and the state of Oregon. Partner will support all amounts billed as Administrative Costs by actual costs. Administrative Costs include, but are not limited to:
- 3.4.2.1. Senior management personnel salaries and benefits (unless they are directly involved in SHS program operations);
- 3.4.2.2. Administrative staff travel costs;
- 3.4.2.3. General services such as human resources, accounting, budget development, procurement, marketing, agency audit, and agency insurance;
- 3.4.2.4. Partner-wide membership fees and dues specific to homeless systems and programs;
- 3.4.2.5. General Partner facilities costs (including those associated with executive positions), such as rent, depreciation expenses, and operation and maintenance (as part of Partner's direct or indirect cost allocation plan);

3.4.2.6. Equipment rental/purchase, insurance, utilities, and information technology costs that are not program specific but relate to Partner administration as a whole; and

3.4.2.7. Any other costs not specifically attributed to a particular SHS program or program delivery.

3.5. RE-ALLOCATION OF PROGRAM FUNDS AFTER REPUDIATION. Notwithstanding **Section 3.2**, Metro may re-allocate Program Funds withheld from one County and disburse those Program Funds to one or more different Counties in the event that the County whose Program Funds are being re-allocated has anticipatorily repudiated the Agreement, as further described in **Section 10.2.3.6**.

4. USE OF INCOME TAXES.

4.1. PROGRAM FUNDS USE. Partner will use Program Funds to develop and implement its SHS program in accordance with this Agreement and its Plan. Although some portion of each of the Counties are outside of the Region, Partner may only spend Program Funds for SHS provided within the Region. The temporary provision of services outside the Region for a duration less than 90 days for a client who has been living in the Region is permitted after May 1, 2022, if SHS in the Region are not otherwise available to the client. Payments to individuals or businesses located outside the Region are allowed, provided the SHS are delivered within the Region. Recognizing that other unusual situations may arise where expending Program Funds outside the Region may be necessary and appropriate after May 1, 2022, Metro will establish an exception process through which the Counties may seek pre-approval for such expenditures. Partner will reasonably monitor the performances of its third-party Services Providers to ensure their performances under contracts funded, in whole or in part, with Program Funds meet the requirements of this section.

Examples of permitted payments include: rent assistance for housing located in the Region that is paid to landlord in Seattle; hiring a technical assistant that is located in Ohio, but delivering a service or product to a person or program in the Region; assisting an individual who presents as homeless in Beaverton, but who just got off a bus from New York, and needs help getting back to New York to achieve stable housing.

Examples of prohibited uses of Program Funds include: rent assistance to a person who formerly lived in Beaverton, but has moved to Seattle (even if the landlord is located in Gresham); mental health services delivered at a clinic in North Plains for a client who lives in Tualatin; assisting an individual who presents as homeless in New York to return to Beaverton.

4.2. SPENDING ON INITIAL SHS COSTS. Anticipating receipt of Program Funds, Partner incurred certain expenses and costs associated with providing SHS, building administrative and staffing capacity to provide SHS, and supporting its SHS programs. Partner may pay for these initial SHS costs through transfers of funds, loans, or other forms of financing until sufficient Program Funds are received by Partner, after which

point Partner may use Program Funds to reimburse its initial SHS costs. Metro further agrees that initial SHS costs are not considered a part of Partner's existing SHS program for purposes of the Measure's prohibition against displacement of funds set forth in **Section 5.5.1**.

- 4.3. **DEBT SERVICE COSTS**. Metro recognizes that Partner may incur internal or external debt to implement its SHS program. The costs of debt, including debt interest and issuance costs, in which Partner used the debt proceeds solely on SHS program implementation beginning January 1, 2021, or later, are an allowable use of Program Funds and an allowable SHS program cost, provided such debt costs are included in the Annual Program Budget for the Fiscal Years in which the costs are incurred.

5. **SHS PLANNING, BUDGETING**.

- 5.1. **METRO SHS WORK PLAN**. Metro will implement its SHS program in a manner that is consistent with the Metro SHS Work Plan. To avoid ambiguity, and except where a specific portion of the plan is clearly identified and referenced in the Agreement, Partner is not required to comply with any performances, rights, or obligations set forth in the Metro SHS Work Plan.

- 5.2. **LOCAL IMPLEMENTATION PLAN**. A Local Implementation Plan is required to describe the priorities and strategies that will shape Partner's use of Program Funds and how these uses align with the purposes provided for in the Measure at Section 3 and the Metro SHS Work Plan. Partner's approved Plan is attached as **Exhibit 2**. Partner agrees to use Program Funds as set forth in its Local Implementation Plan.

- 5.2.1. **MATERIAL PLAN AMENDMENT APPROVAL PROCESS**. The approval process for Material Plan Amendments is as follows:

5.2.1.1. Partner develops the Material Plan Amendment using a locally convened community engagement process, as described in the Measure at Section 6, and submits the Material Plan Amendment to its advisory body (i.e., its board of county commissioners) for review and approval;

5.2.1.2. Partner submits the County-approved Material Plan Amendment to the ROC for its review and recommendation;

5.2.1.3. The ROC either recommends to Metro approval or denial of the Material Plan Amendment; and

5.2.1.4. Metro Council then approves or denies the Material Plan Amendment. If denied, Partner must submit a new Material Plan Amendment or initiate the dispute resolution process in **Section 10.1**.

- 5.2.2. **PLAN AMENDMENTS**. If Partner seeks a Material Plan Amendment, it must follow the approval process set forth in **Section 5.2.1**. Partner may request that Metro waive the process to implement a temporary Material Plan Amendment upon a Metro finding that a delay would seriously impact Partner's ability to implement the current Plan or adequately address an ongoing service need. A waiver of the

approval process requirement for a Material Plan Amendment is effective for no more than nine months from the date Metro granted the waiver. Partner is not required to amend the goals described in its Plan for the first year of SHS programming. After that first year, changes based on insufficient Income Tax revenue will be reflected in changes to relevant Annual Work Plans.

5.2.2.1. Partner will notify the ROC and Metro of changes to its Plan that are not Material Plan Amendments by submitting a copy of the approved amended Plan. If, after consultation with the ROC, Metro determines the amendment is a Material Plan Amendment, Metro must notify Partner of its finding within 60 days of the submittal. Partner may initiate the dispute resolution process in **Section 10.1** if it disagrees with Metro's determination. If Partner does not, within 30 days of receiving Metro's notification, dispute Metro's determination that an amendment to a Plan is a Material Plan Amendment, then the amendment will not be effective unless Partner obtains approval for the amendment as set forth in **Section 5.2.1**.

5.2.2.2. The Parties acknowledge and agree that, given the nature of Local Implementation Plans, an amendment request under **Section 5.2.2** or **5.2.2.1** should be rare; and, given the very time intensive nature of approving amendments, the Parties will rely on the Annual Work Plan process to make Plan adjustments whenever feasible.

5.2.3. AMENDMENTS TO PLAN SOUGHT BY ROC, METRO. Within 60 days of the date that Partner presents its Annual Program Report to Metro Council, Metro or the ROC may, in consultation with the other, request that Partner amend its Local Implementation Plan based on one or more ROC recommendations or a significant change in circumstances impacting homelessness in the Region. The request must be in writing and otherwise comply with the notice requirements in **Section 11.4** and describe in sufficient detail the purpose for the proposed amendment.

5.2.3.1. Partner will timely respond to a request for an amendment to its Local Implementation Plan and either: (a) agree to draft an amendment to its Plan that is responsive to the request; (b) decline the request for an amendment and explain why the amendment is not needed; or (c) propose an alternative approach that Partner feels is responsive to the purpose described by the ROC or Metro in its proposal. Plan amendments under this **Section 5.2.3** must follow the process set forth in **Section 5.2.2**. If Partner declines the request for an amendment, Metro may initiate the dispute resolution process in **Section 10.1**.

5.2.3.2. The Parties acknowledge and agree that, given the nature of Local Implementation Plans, an amendment request under **Section 5.2.3** should be rare; and, given the very time intensive nature of approving amendments, the Parties will rely on the Annual Work Plan process to make Plan adjustments whenever feasible.

- 5.2.3.3. If Partner fails to timely or adequately respond to a Plan amendment request, Metro may seek dispute resolution.
- 5.2.4. AMENDMENT TO LOCAL IMPLEMENTATION PLAN REQUIRED AFTER TRI-COUNTY PLAN ADOPTED. Within one year of the adoption of the Tri-County Plan, and as needed thereafter, Partner will bring forward any necessary amendments to its Local Implementation Plan that incorporate relevant regional goals, strategies, and outcomes measures. The ROC will review the amendments and recommend approval or denial of the Plan amendments to the Metro Council. The Parties recognize and agree that, given the nature of Local Implementation Plans, amendments to the Local Implementation Plan may not be necessary, or should be rare, and that Tri-County Plan directives may more appropriately be incorporated into Partner's Annual Work Plan.
- 5.3. ANNUAL WORK PLAN. Beginning in FY 2022-23, Partner must annually submit an Annual Work Plan to Metro and the ROC for their review on or before April 1 for the subsequent Fiscal Year. Partner will prepare the Annual Work Plan using a template jointly created and approved by Metro and the Counties. In lieu of an Annual Work Plan describing implementation plans for the first Fiscal Year of the Term, Partner will provide, as part of its first Quarterly Progress Report detailed in **Section 7.1.2**, a summary of SHS implementation efforts underway and planned for the balance of that Fiscal Year. Metro will receive and review the Annual Work Plan for consistency with Partner's Local Implementation Plan, and Partner agrees to provide SHS as described in the Annual Work Plan.
- 5.4. METRO BUDGETING.
- 5.4.1. ADMINISTRATIVE EXPENSES. At least annually, Metro will prepare a written budget for its SHS program that details its use of Income Taxes and its Administrative Expenses and will present its SHS budget to the ROC. The ROC will consider whether Metro's SHS budget, its collection costs, and its Administrative Expenses could or should be reduced or increased. The ROC may recommend to the Metro Council how Metro can best limit its collection and Administrative Expenses in the following Fiscal Year.
- 5.4.1.1. SUPPORT FOR OVERSIGHT GROUPS. Metro will annually allocate a sufficient portion of resources to provide the staffing and logistical support required by the Executive Committee, FRT, ROC, and TCPB.
- 5.5. PARTNER BUDGETING.
- 5.5.1. NON-DISPLACEMENT. Partner may not Displace Current Partner-provided SHS Funds with Program Funds received by Metro under this Agreement absent Partner receiving a written waiver from Metro that good-cause exists to permit the requested Displacement. Metro will not unreasonably withhold a waiver. As part of its Annual Program Report, Partner will include a certification as to whether there was a Displacement of Current Partner-provided SHS Funds.

5.5.1.1. OTHER FUNDS. Partner has previously used other funds for the provision of SHS. Some of the funding is County general fund. However, other funds include, but are not limited to, various state or federal grants and other non-general fund sources. Partner will attempt, in good faith, to maintain such funding at the same levels set forth in Partner's FY 2018-19 budget. However, because the amount and availability of these other funds are outside of Partner's control, they do not constitute Partner's Current Partner-provided SHS Funds for purposes of Displacement. Partner will provide Metro with information on the amount of other funds Partner has allocated to SHS, as well as the change, if any, of those funds from the prior Fiscal Year in its Annual Program Budget.

5.5.1.2. TERMS. As used in **Section 5.5.1**:

- a. "Current Partner-provided SHS Funds" means Partner's general funds currently provided as of FY 2019-20 towards SHS programs within Partner's jurisdictional limits including, but not limited to, within the Region. "Current Partner-provided SHS Funds" expressly excludes all other sources of funds Partner may use to fund SHS programs as of FY 2019-20 including, but not limited to, state or federal grants. Apart from such general fund dollars already budgeted and used for SHS purposes as described in **Section 5.5.1**, this Agreement does not require Partner to expend or risk its own funds (other than the Program Funds it receives) or otherwise incur any financial liability in the performance of any of its duties, or in the exercise of its rights or powers hereunder.
- b. "Displace" or "Displacement" means to reduce Partner's overall, county-wide Current Partner-provided SHS Funds. Partner's reduction of funds provided towards a particular SHS program, type of SHS, or a reduction of SHS funds in a particular geographic area including, but not limited to, within the Region, is not a Displacement, provided Partner's overall Current Partner-provided SHS Funds are not reduced. The Parties agree that Partner may reduce current SHS programs currently being provided within the Region, but that reduction is not a "Displacement" and does not violate **Section 5.5.1** of this Agreement or Section 9 of the Measure, provided Partner's overall Current Partner-provided SHS Funds are not reduced.

5.5.2. ANNUAL PROGRAM BUDGET. As part of its Annual Program Report, Partner must submit to Metro for review an Annual Program Budget for the current Fiscal Year. In FY 2021-22, Partner will present the SHS Program Budget in a form reasonably designed to identify Budgeted Program Funds for that Fiscal Year. Starting in FY 2022-2023, Partner must submit Annual Program Budgets using a template jointly created and approved by Metro and the Counties and must include in its Annual Program Budget its "spend-down plan" for that year, as described below, and information on the amount of other funds Partner has allocated to SHS, and changes, if any, to that funding level from the prior Fiscal Year, as described in **Section 5.5.1.1**. If the Annual Program Budget is amended by Partner's governing

body, Partner must submit to Metro the amended Program Budget within 60 days of the governing body's approval. Partner agrees to provide funding for SHS as described in the Program Budget; provided, however, that Partner is only obligated to provide funding for SHS in the amounts actually received from Metro. A failure to submit an Annual Program Budget to Metro by the end of the first quarter and any material deviation from the Annual Program Budget without prior notice and explanation to Metro may be cause for Metro to initiate the dispute resolution process in **Section 10.1**.

5.5.2.1. **SPEND-DOWN PLAN**. Partner's "spend-down plan" should describe the nature and timing of planned spending of Program Funds it expects to receive in the Fiscal Year based on the FRT's forecast. In addition, the description will document existing and contemplated reserves, any program reserves, funds anticipated to be carried over for SHS programming into the following Fiscal Year(s) with the anticipated timeline for spending of those funds, and such other information as the Parties agree to in writing. Partner will report on, and explain any material deviations from, the plan reflected in its Budgeted Program Funds as part of its Quarterly Progress Report. A "material deviation" from a spend-down plan described under this section, or a CAP, arises where the Program Funds spent in a given Fiscal Year cannot be reconciled against the spend-down plan or CAP in the relevant Annual Program Budget to the degree that no reasonable person would conclude that Partner's spending was guided by or in conformance with the applicable spend-down plan or CAP.

5.5.3. **PARTNER STABILIZATION RESERVE**. Partner will establish and hold a Stabilization Reserve to protect against financial instability within the SHS program and to insulate continuing program objectives from significant revenue fluctuations. The target minimum reserve level will be equal to 10% of Partner's Budgeted Program Funds in a given Fiscal Year. Stabilization Reserve funds may be used when the Program Funds allocated to Partner fall below the budgeted estimate for that time period and based on Partner's decision, informed by the FRT's assessment under **Section 6.2.5.2**, that release of such funds is needed to prevent significant program reductions. The Stabilization Reserve for each County will be fully funded within the first three years of the Term.

5.5.4. **CONTINGENCY**. Partner may establish and hold a contingency account in addition to a Stabilization Reserve. The contingency account will provide resources for emergency situations or unplanned SHS program expenditures that, if left unattended, could negatively impact service delivery. The contingency account will not exceed 5% of Budgeted Program Funds in a given Fiscal Year.

6. **PERFORMANCE AND FINANCIAL GOVERNANCE**.

6.1. **RECORDKEEPING, CONTROLS**. Each Party must:

6.1.1. maintain Records of payments made and funds received under this Agreement;

- 6.1.2. make an annual accounting of their use of Income Taxes and provide that accounting to their respective CFOs, Metro, and the ROC, and make that accounting available for review by the Partner Auditor and the Metro Auditor, as well as by any public accounting or auditing firms retained by a Party;
 - 6.1.3. exercise the rights and powers vested in it by this Agreement and use the same degree of care and skill as a prudent person would exercise or use under the circumstances; and
 - 6.1.4. ensure that any Income Taxes (including general tax receipts or reserves) held for more than one Fiscal Year are retained in accordance with state finance law and administered according to its investment policy. All proceeds of such investments will be added to Program Funds and otherwise must be spent on SHS programs or Administrative Expenses and Administrative Costs, as appropriate.
- 6.2. FINANCIAL REVIEW TEAM. The FRT is a technical committee charged with assessing Income Tax collections and the Region's overall financial health at regular intervals and on an as needed basis in order to support Metro, the Counties, and the ROC. FRT members may consult with the Metro Economist, any County economist, or other financial professionals as they deem appropriate. The role, membership, and responsibilities of the FRT are set forth below.
- 6.2.1. ROLE. The FRT's role is to provide financial analysis and advice to Metro, the Counties, and the ROC regarding the current and prospective adequacy of Program Funds to fund SHS programs. In addition, the FRT may provide periodic advice and reporting to any County, or other Party representative, as needed, including to County elected officials and elected members of the Metro Council.
 - 6.2.2. MEMBERSHIP. The FRT is composed of four members – the CFOs, or their designees, for the Counties, and the CFO, or their designee, for Metro. FRT members will provide Metro with their contact information.
 - 6.2.3. MEETINGS. The FRT will meet quarterly, or as often as needed as agreed between the CFOs, to review Income Tax collections, revenue projections, Program Funds disbursements, partner spending activity, any requests for disbursements from Stabilization Reserves, and to meet timelines specified between the FRT members. The Metro CFO will provide notice to the members at least five business days in advance of a meeting. Meetings may be held in person or by means of telephonic or electronic communications.
 - 6.2.4. REPORTS. The FRT and its members, in making their recommendations and reports on any task, do not have to reach consensus or vote on a single recommendation and may, instead, make as many recommendations as are needed to fully describe the members' opinions or the range of options being recommended by the members. If multiple FRT written recommendations or reports are made for a task, the document memorializing their deliberations will: (a) include all recommendations and reports submitted by FRT members, with each

recommendation including a full description of the recommended action(s); and (b) indicate which member(s) support each recommendation.

6.2.5. TASKS, REVIEWS. The tasks to be performed by the FRT, the criteria to evaluate, the timing and/or frequency of tasks, and the deliverable(s) for each task, are described below. Notice, reports, or advice described in the tasks below that are required to be in writing must be transmitted via email to the appropriate individuals using the contact information in **Exhibit 4**.

6.2.5.1. TASK 1. Develop a five-year revenue and expenditure forecast and advise the ROC, Counties, and Metro, as needed.

- a. TIMING/FREQUENCY. The forecast prepared under this Task 1 will be completed and made available annually by the first business day in the month of December. The FRT may revise and or enhance the forecast on a more frequent basis as needed.
- b. FRT ACTION. The revenue and expenditure forecast prepared by the FRT under this Task 1 will support the Counties in developing annual budgets or enhancing current year estimates. The FRT will assess tax collection activity, program expenditure activity, cash flows, adequacy of their respective Stabilization Reserves, and assess the overall financial health of the SHS program. Information to be reviewed in preparing annual forecast will include but is not limited to:
 - i. Local and national key economic indicators;
 - ii. Tri-County tax collection activity (current and historical) and collection rates;
 - iii. Historical spending trends by the Counties against their respective budgets;
 - iv. Review adequacy of Stabilization Reserve funds for each County; and
 - v. Review and assess County-held SHS contingency accounts.
- c. FRT DELIVERABLES. The FRT will prepare a written summary report based on the forecast of SHS Revenues and SHS expenditures created and provided by the Metro CFO under **Section 7.2.1.1**. The FRT's report will contain a five-year revenue/expenditure forecast, current SHS Revenue collection activity, economic factors impacting tax collections, spending activity by any County subject to a CAP (as described in **Section 6.3.5**), and adequacy of each County's Stabilization Reserve.

6.2.5.2. TASK 2. The FRT will develop a policy to establish and manage Stabilization Reserve funds. The policy will be completed no later than May 2, 2022. In addition, the FRT will review the adequacy of each County's Stabilization Reserve, review and recommend policies for establishment and usage of

reserves, use of reserves, and monitor timely restoration of required reserve levels.

- a. TIMING/FREQUENCY. At least annually, the FRT will assess adequacy of reserves and review instances of reserve usage.
- b. FRT ACTION. Make recommendations, as appropriate, regarding the usage of moneys from Stabilization Reserve funds. Set plan and timeline for reserve restoration.
- c. FRT DELIVERABLE. For instances when Stabilization Reserve usage is recommended, the FRT will prepare a report detailing the recommended amount to be used, description of the economic conditions that caused revenue shortfalls, planned program usages of reserves, and timeline to restore reserve.

6.3. OBLIGATIONS OF THE PARTIES.

- 6.3.1. DUTY TO RESPOND TO REGIONAL OVERSIGHT COMMITTEE. Each Party agrees to respond to any recommendations of the ROC reasonably related to carrying out the ROC's responsibilities. The Parties may respond by providing an explanation for why it disagrees with the recommendation, or any portion of a recommendation, or by identifying proposed strategies to address the recommendation(s). The Parties will submit written responses to the ROC.
- 6.3.2. DATA SHARING AGREEMENT. The Parties will enter into a data sharing agreement no later than May 31, 2022. The purpose of the data sharing agreement is to provide the Parties, and the oversight groups described in **Section 8**, with access to disaggregated, de-identified data, or as otherwise agreed to between the Parties, that allows for meaningful review of whether the Parties are achieving progress towards measurable goals, and to further aid in certain research, planning, and program evaluation.
- 6.3.3. PERIODIC REVIEW OF AGREEMENT. The Parties agree to convene to review this Agreement periodically. Beginning on July 1, 2023, either Party may request that the Parties and other Counties meet to consider amendments to this Agreement. If a request to consider amendments is made, the Parties agree to convene and, in a timely manner, assign adequate staff resources, establish a schedule for negotiations and participate in the negotiations in good faith.
- 6.3.4. GOOD FAITH PERFORMANCE. The Parties will execute their duties to each other and the ROC and TCPB in good faith.
- 6.3.5. CORRECTIVE ACTION PLAN. If after appropriate notice and opportunity to remedy identified concerns, Metro reasonably determines that Partner is not adhering to the terms of its Plan, current Annual Work Plan or Annual Program Budget, or current spend-down plan, then Metro may, with input from the ROC and from Partner, require Partner to develop a Corrective Action Plan. In determining whether a CAP is necessary, Metro may rely upon Partner's last Annual Program

Report, Quarterly Progress Reports, its Annual Program Budget, its Local Implementation Plan, and any other relevant document. The CAP will outline the actions needed by both Parties to achieve desired program outcomes and the timeline for completion. The Metro Chief Operating Officer and a leader identified by Partner's chief executive must approve a CAP for it to become effective. If either Party fails to timely or adequately perform the actions in the CAP, or if the Parties are unable to agree on a CAP, either Party may initiate dispute resolution.

6.4. PARTNER OBLIGATIONS.

- 6.4.1. CONSISTENCY BETWEEN BUDGETING, FUNDING. Partner agrees to use Budgeted Program Funds for SHS substantially as described in its Annual Program Budget. Partner may reallocate Budgeted Program Funds across SHS budget categories as needed to achieve program goals, provided that the reallocation does not materially and adversely affect performance of Partner's Annual Work Plan. Partner must report on, and justify, any material reallocations of Budgeted Program Funds in its next Quarterly Report.
- 6.4.2. SERVICES PROVIDERS MONITORING. Partner must monitor the activities of Services Providers as is reasonable to ensure compliance with this Agreement.
- 6.4.3. FORECASTING ASSISTANCE. Partner's CFO, as part of their work on the FRT, will consult with Metro's CFO and the CFOs for the other Counties on the annual forecasts of Income Tax collections described in **Section 7.2.1.1.**
- 6.4.4. DATA COLLECTION. Partner must maintain, individually or jointly by implementation of the Counties, a Homeless Management Information System (HMIS) that satisfies relevant federal regulatory requirements and that collects participant level data on programs funded by Program Funds. Metro's access and use of this data is the subject of the data sharing agreement described in **Section 6.3.2.**

6.5. METRO OBLIGATIONS.

- 6.5.1. SUPPORT REGIONAL COMMITTEES. In order for the Counties to meet their commitments under this Agreement and achieve the objectives of the Measure, Metro will ensure that the ROC and TCPB are convened, staffed, funded, and operating.
- 6.5.2. REVIEW OF PARTNER SHS SPENDING. Metro will annually review Partner's Annual Program Report for the previous Fiscal Year to evaluate how Program Fund expenditures impacted established SHS program metrics and whether Partner's spending was consistent with its Annual Program Budget.
- 6.5.3. PARTNER MONITORING. Upon reasonable written notice to Partner, Metro may reasonably monitor up to once per Fiscal Year, or for cause, not more than 25% of the SHS program activities described in a given Fiscal Year's Annual Work Plan, including Partner's associated Records and the Records of its Services Providers for that Fiscal Year. This monitoring will be to review Partner's and its Services

Providers' compliance with the terms of this Agreement. Ahead of any monitoring event under this section, the Parties must develop a written plan describing how Metro will conduct its review. Metro may use third-parties in its monitoring activities. Partner consents to reasonable monitoring by Metro, as set forth in this section, and agrees to reasonably cooperate with reasonable requests, and to require that its Services Providers also cooperate with reasonable requests.

6.5.4. DATA REPORTING PROGRAM. As more specifically described in the data sharing agreement identified in **Section 6.3.2**, Metro will establish a regional SHS program data collection and reporting program that supports tri-county regional collaboration.

7. REPORTING REQUIREMENTS.

7.1. PARTNER REPORTING REQUIREMENTS.

7.1.1. ANNUAL PROGRAM REPORT. No later than October 31 of each year, Partner will provide an Annual Program Report for the previous Fiscal Year to the ROC and Metro Council. The report will describe how Partner spent Program Funds in the previous Fiscal Year and how those expenditures contributed to outcomes as defined by Partner's Local Implementation Plan and, once established, regional outcome metrics. Partner will prepare the Annual Program Report using a template jointly created and approved by Metro and the Counties and will include the following:

7.1.1.1. Partner's Annual Program Budget and spend-down plan for the given Fiscal Year;

7.1.1.2. A certification consistent with **Section 5.5.1** that Partner did not reduce funding commitments for SHS in the Fiscal Year;

7.1.1.3. Reporting on all required outcome and equity metrics for the Region for the Fiscal Year, regional measurable goals, and any applicable performance evaluation metrics;

7.1.1.4. A summary of SHS program investments over the Fiscal Year (if not identified in the Annual Program Budget);

7.1.1.5. An analysis of how SHS program investments have contributed to the values and goals of the SHS program;

7.1.1.6. Any strategies to adjust or augment SHS programming to improve performance and outcomes in future years; and

7.1.1.7. A list of all the Services Providers under contract with Partner that received Program Funds, and the amount of funds received by each contractor.

7.1.2. QUARTERLY PROGRESS REPORT. Beginning at the end of the first Fiscal Year quarter after the Effective Date, and no later than 45 days after the end of each Fiscal Year quarter, Partner will prepare a Quarterly Progress Report and provide

that report to the ROC and Metro. Partner will prepare the Quarterly Report using a template jointly created and approved by Metro and the Counties that will include information on progress toward local and regional metrics, budgeted spending, transfers of Program Funds between Counties, and any material changes in programming or strategy from those set out in the Annual Work Plan. For reports created before the template is available, the information to be included in the reports will be as agreed to by the Parties.

7.2. METRO REPORTING REQUIREMENTS.

7.2.1. ANNUALLY. Each Fiscal Year, Metro must prepare and submit the reports provided for below.

7.2.1.1. FIVE-YEAR FORECAST. Metro's CFO, in consultation with the FRT, must prepare a five-year revenue forecast to support the Counties in developing their annual budgets and revising current year estimates as needed. The forecast will evaluate Income Taxes collection activity, SHS program expenditure activity, cash flows, adequacy of funds in Stabilization Reserves, economic factors impacting tax collections, and the overall financial health of the SHS program. Metro will provide these forecasts to the ROC and TCPB by the first business day in December, and provide timely updates of those projections, as available.

7.2.1.2. PROGRAM FUNDS REPORT. Metro will provide an annual report to the Counties of all Income Taxes not distributed to the Counties, and a breakdown of the use of those funds, including Income Taxes used to pay for collection and Administrative Expenses.

7.2.2. MONTHLY. Monthly each Fiscal Year, Metro must provide to the Counties a report on actual Income Tax collections for the reported month, and other readily available reports. If a requested report is not readily available, Metro will make a reasonable attempt to obtain that report.

8. SHS PROGRAM GROUPS.

8.1. EXECUTIVE COMMITTEE.

8.1.1. ROLE, FUNCTIONS. The Executive Committee addresses ongoing and specific SHS program implementation improvement needs as follows:

8.1.1.1. Regularly convene meetings between representatives from the Counties and Metro with the appropriate subject matter training and SHS background to learn about and respond to matters impacting SHS program implementation as they arise. At their meetings, members may work to understand strong criticisms of the SHS program or its implementation; connect issues brought to the committee to performances, rights, and obligations in the Agreement or Measure; and otherwise discuss and provide feedback regarding SHS program matters to promote ongoing cooperative efforts between all SHS program partners.

- 8.1.1.2. As needed and described in **Section 10.1**, convene as an informal problem solving body prior to the initiation of mediation or other remedies provided for under the Agreement.
- 8.1.1.3. As described in **Section 8.2.4**, convene to assess Metro-proposed changes to the ROC after a review by Metro of the ROC's role and effectiveness.
- 8.1.1.4. As described in **Section 10.2.3.6**, convene to consider whether a County has anticipatorily repudiated the Agreement.
- 8.1.2. **MEMBERSHIP**. Each County and Metro will appoint four individuals to serve as their respective representatives on the Executive Committee. Each party's delegation should be comprised of at least one individual each with program, policy, legal, and finance expertise, as well as familiarity with the terms of the Agreement and with the SHS program, generally. Each Executive Committee member serves until they are replaced by the public body that they represent.
- 8.1.3. **MEETINGS**. Any County or Metro may call for an Executive Committee meeting, and the committee may meet as often as needed to respond to issues arising under the Agreement and meet relevant timelines or requirements in this Agreement. Not all Executive Committee members need to attend each meeting if the Counties and Metro agree on limiting attendance to certain members based on the agenda for a meeting (e.g., to members with particular expertise, such as SHS program implementation). Metro will send written notice to members, including an agenda, at least five business days before a meeting. Meetings may be held in person or by means of telephonic or electronic communications.
- 8.1.4. **ACTIONS**. Executive Committee actions are by delegation, rather than based on individual members. Unless otherwise provided in the Agreement, the Executive Committee and each Party's delegation in making their recommendations on any matter do not have to reach consensus or vote on a single recommendation but may instead make as many recommendations as are needed to fully describe the opinions or the range of options being recommended by the committee and its delegations. If multiple written recommendations are made for a matter, the document memorializing their deliberations will: (a) include all recommendations submitted, with each recommendation including a full description of the recommended action(s); and (b) indicate which delegation(s) support each recommendation. If the Agreement calls for the Executive Committee to assess a specific matter and asks for the committee's delegations to "find" or vote regarding an outcome and based on a majority view, a "majority" of the Executive Committee delegations means at least three of the four delegations support the outcome.
- 8.2. **REGIONAL OVERSIGHT COMMITTEE**.
- 8.2.1. **PURPOSE AND AUTHORITY**. The ROC is charged with the SHS program oversight functions set forth in the Measure at Sections 5(2) and 14(2).

- 8.2.2. MEMBERSHIP. Metro will work cooperatively with the Counties to select ROC members.
- 8.2.3. MEETINGS. The ROC will convene in a manner that is consistent with the ROC Charter and as frequently as needed to meet its obligations under the Measure and Agreement.
- 8.2.4. PERIODIC REVIEW. Metro may conduct a review of the ROC's role and effectiveness as appropriate. If after its review Metro concludes, in good faith, that revisions to the ROC, including to the ROC Charter, are necessary then it will provide the Executive Committee with written findings detailing the issues it believes warrant changes to the ROC, and a description of the change(s) it proposes. The Executive Committee will review Metro's proposal(s) and determine whether the proposed change(s) alter the purpose or authority of the ROC, as set forth in the Measure at Section 5(2). If a majority of the Executive Committee's delegations find that the proposed changes do not alter the purpose or authority of the ROC, then Metro may implement its proposed changes 30 days after the Executive Committee's finding. If a majority of the committee's delegations find that Metro's proposed changes alter the purpose or authority of the ROC, then the following process applies:
- 8.2.4.1. Metro and the Counties may execute an amendment to the Agreement to implement Metro's proposed changes to the purpose, or authority of the ROC; or
- 8.2.4.2. Metro may implement its proposed change(s) to the purpose, or authority of the ROC with the majority written approval of the elected officials of the Counties, as follows:
- a. Metro will incorporate its proposed change(s) to the ROC into a revised ROC Charter and then circulate a redline of its proposed revisions to the charter to the Counties for their review and approval.
 - b. Any County that is amenable to the change(s) incorporated into the revised ROC Charter circulated by Metro may agree to the change(s) by sending a letter, signed with the approval of the County's board of commissioners, that describes the approved change(s) to the ROC Charter and confirms the County's approval of such change(s).
 - c. Metro may implement its proposed change(s) to the purpose, or authority of the ROC, as set forth in the revised ROC Charter, with the written approval of two of the three Counties as set forth above.

A Party that determines that a change to the ROC, implemented by Metro without approval through the above process, is outside the purpose or authority of the ROC, or otherwise violates the Agreement, may seek dispute resolution of that matter. Disputes arising under this **Section 8.2.4** may skip the review provided for in **Section 10.1.3**.

8.3. TRI-COUNTY PLANNING BODY.

8.3.1. PURPOSE. Metro will convene the TCPB to strengthen coordination among the Counties and Metro in addressing homelessness in the Region. The TCPB will identify Regional goals, strategies, and outcome metrics that support Regional SHS coordination and alignment. The TCPB will approve and incorporate strategies developed and investments made by each County that reasonably accomplish the Regional goals, strategies, and outcome metrics identified by the TCPB for the Tri-County Plan, and that the Tri-County Plan's purpose will be to support the successful implementation of each County's locally developed Plan.

8.3.2. TCPB CHARTER. Within 120 days of the Effective Date, Metro and the Counties will finalize the TCPB Charter which will describe a proposed structure, roles, and procedures for the TCPB, to be presented to the Parties' governing bodies for approval.

8.3.3. REGIONAL STRATEGY IMPLEMENTATION PLAN AND FUND. Each County must contribute not less than 5% of its share of Program Funds each Fiscal Year to a Regional Strategy Implementation Fund to achieve regional investment strategies. Partner may use the 5% for expenses that are consistent with the "measurable goals" described in the Metro SHS Work Plan at Section 5.2 until such time as the TCPB has developed new or different regional goals and provided the Parties with the Tri-County Plan detailing those goals. Each Fiscal Year, Partner must describe in its Annual Program Budget its investments in regional strategies during the reporting year. Partner may reimburse itself from its Regional Strategy Implementation Fund for its investments in regional strategies. Partner may collaborate with and pay other Counties from its Regional Strategy Implementation Fund to implement regional investment strategies in the Tri-County Plan.

8.4. METRO.

8.4.1. FUNCTIONS. Metro provides oversight and accountability for how Program Funds are spent by Partner under the SHS program through:

8.4.1.1. Adoption of Metro's SHS Work Plan and any amendments thereto;

8.4.1.2. Approval of Local Implementation Plans and any Material Plan Amendments, as set forth in the Agreement and consistent with the mandate of providing Partner sufficient flexibility to best serve the needs of its residents, communities, and those receiving SHS;

8.4.1.3. Appointing ROC members as set forth in **Section 8.2.2**; and

8.4.1.4. Monitoring of program outcomes and metrics, with guidance from the ROC and, when formed, the TCPB.

9. RISK-SHARING.

9.1. NOTICE. If any third-party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 (a "Third-Party Claim") against a Party that one or more of the Parties may have liability, the Party against whom the Third-Party Claim was directed shall promptly notify the other Party in writing of the Third-Party Claim and provide the other Party with a copy of the claim, process and all legal pleadings with respect to the Third-Party Claim that have been received.

9.2. INDEMNIFICATION BY THE PARTIES.

9.2.1. PARTNER. Subject to the limits of the Oregon Tort Claims Act (OTCA) and the Oregon Constitution, Partner shall indemnify and hold harmless Metro and its officers, agents, and employees, or any of them from any and all liability, loss, costs, expenses, and damages of any nature whatsoever, by any reason of or arising out of any act or omission of Partner, its officers, agents, and employees, or any of them relating to or arising from Partner's performances under the Agreement. In the event that any suit based upon such a Third-Party Claim is brought against Metro, Partner shall defend the same at its sole cost and expense; provided that Metro reserves the right to participate in said suit if any principle of governmental or public law is involved; and if final judgment be rendered against Metro, and its officers, agents, and employees, or any of them, or jointly against Metro and Partner and their respective officers, agents, and employees, or any of them, Partner shall satisfy the same.

9.2.2. METRO. Subject to the limits of the OTCA and the Oregon Constitution, Metro shall indemnify and hold harmless Partner and its officers, agents, and employees, or any of them from any and all liability, loss, costs, expenses, and damages of any nature whatsoever, by any reason of or arising out of any act or omission of Metro, its officers, agents, and employees, or any of them relating to or arising from Metro's performances under the Agreement. In the event that any suit based upon such a Third-Party Claim is brought against Partner, Metro shall defend the same at its sole cost and expense; provided that Partner reserves the right to participate in said suit if any principle of governmental or public law is involved; and if final judgment be rendered against Partner, and its officers, agents, and employees, or any of them, or jointly against Metro and Partner and their respective officers, agents, and employees, or any of them, Metro shall satisfy the same.

9.3. INDEMNIFICATION BY SERVICES PROVIDERS. After the Effective Date, Partner will take reasonable steps to cause its Services Providers that are not units of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless Metro and its officers, employees and agents from and against any and all claims and losses arising from a tort (as now or hereafter defined in ORS 30.260) caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Partner's Services Provider or any of the officers, agents, employees or subcontractors of the Services Provider.

10. DISPUTES, REMEDIES.

10.1. DISPUTE RESOLUTION. In the event a dispute arises between the Parties regarding this Agreement, including where a Party determines that the other is not complying with the Agreement, the Parties will use the following process to attempt to resolve the dispute.

10.1.1. A Party will provide the other with written notice of the dispute. The notice will describe the dispute, or if the notice arises from non-compliance with the Agreement, describe evidence of non-compliance and the steps the Party believes are needed to restore compliance with the Agreement. Unless otherwise provided for in the Agreement, the Party receiving notice will have 30 days from the date it receives the notice to restore compliance with the Agreement. If the non-compliance issue is of such a nature that it cannot reasonably be cured within 30 days, the Party on notice of its non-compliance will have such additional time as required to restore its compliance with the applicable terms of the Agreement, as long as it is acting in a reasonable manner and in good faith.

10.1.2. If the non-compliant Party does not reasonably correct the non-compliance concern or if the dispute is not otherwise resolved between the Parties within the time allowed, the Parties will attempt to settle the issue through good faith negotiation. This may be done at any management level, including at a level higher than persons directly responsible for administration of the Agreement.

10.1.3. If the Parties are unable to resolve the issue through such negotiation, or such negotiations have not resolved the dispute or non-compliance concern within 30 days from the date a Party first issues written notice as provided in **Section 10.1.1** and the Parties have not agreed to an extension of time to negotiate, the Parties will submit the issue to the Executive Committee as provided in **Section 8.1**. The Executive Committee will attempt to resolve the dispute or non-compliance concern on terms acceptable to both Parties.

10.1.4. If the Executive Committee is unable to resolve the dispute or non-compliance concern within 30 days of their first meeting regarding the issue, and the Parties have not agreed to an extension of time for the Executive Committee to resolve the dispute, the Parties will then attempt in good faith to resolve the issue by facilitated mediation. The Parties agree to attend at least four hours of mediation before resorting to arbitration, litigation, or some other dispute resolution procedure. The Parties agree to schedule the mediation within 60 days of written notice from the Executive Committee that it is unable to resolve the dispute or non-compliance concern.

10.1.5. The Parties will attempt to use the services of a mutually agreed upon mediator, with a preference for a mediator with experience in mediating disputes between local governments. If the Parties cannot mutually agree on a mediator within 14

business days of having submitted a possible mediator candidate, or the mediation is unsuccessful, either party may proceed to arbitration or litigation.

10.1.6. Each Party is responsible for its own dispute-related costs. The Parties will each pay for half of any mutually retained mediator or arbitrator's services and costs.

10.1.7. Nothing prevents a Party from resorting to a court of competent jurisdiction in those instances where injunctive relief may be appropriate; or, if the Parties agree, seek arbitration to resolve the dispute or non-compliance concern. Any dispute submitted for arbitration will be settled in accordance with the commercial arbitration rules of the Arbitration Services of Portland, Inc., then in effect, and judgment on the award may be entered in any court having jurisdiction.

10.2. REMEDIES.

10.2.1. BREACH BY PARTNER. Subject to the dispute resolution process set forth in **Section 10.1** and the limits of the OTCA and the Oregon Constitution, if Metro reasonably believes that Partner (a) has failed to comply timely with any material obligation under this Agreement or its Local Implementation Plan, or (b) is not spending its Program Funds according to the terms of this Agreement, then Metro may exercise any remedy available to it under this Agreement or applicable law, including but not limited to injunctive relief and termination of the Agreement.

10.2.2. BREACH BY METRO. Subject to the dispute resolution process set forth in **Section 10.1** and the limits of the OTCA and the Oregon Constitution, if Partner believes that Metro (a) has failed to comply timely with any material obligations under this Agreement, the Metro SHS Work Plan, or applicable law, or (b) is not disbursing funds timely or in the amount required under this Agreement, then Partner may exercise any remedy available to it under this Agreement or applicable law, including but not limited to injunctive relief and termination of the Agreement.

10.2.3. WITHHOLDING PROGRAM FUNDS. If Metro in good faith determines that Partner has Misused, as defined below, Program Funds, and after engaging in any relevant responsive process set forth in the Agreement, then Metro may withhold from future Program Fund allocations to Partner an amount equal to the Misuse, as provided below, until Partner corrects the Misuse as set forth below.

10.2.3.1. "Misuse" means Partner: (a) used Program Funds for non-SHS purposes; (b) except as provided for in **Section 4.1**, spending Program Funds outside the Region; or (c) failed to comply with a CAP.

10.2.3.2. NOTICE AND DISPUTE RESOLUTION. Prior to withholding future Program Funds, Metro will provide Partner written notice of the alleged Misuse and immediately begin the dispute resolution process set forth in **Section 10**. If the Parties have not resolved the dispute within 90 days of Partner receiving written notice of the Misuse, Metro may withhold future Program Funds in an amount equal to the alleged Misuse. Notwithstanding the 90-day period provided herein, Metro will not withhold future Program Funds if Metro reasonably determines

the Parties are attempting, in good faith, to resolve the dispute through the dispute resolution process set forth in **Section 10**.

- 10.2.3.3. TERMINATION OF WITHHOLDING. Metro's right to withhold future Program Funds terminates upon the occurrence of one of the following:
- a. APPROPRIATE SPENDING. Partner either, as appropriate: (i) provides funding towards an eligible Partner SHS program, through non-Program Funds dollars, in an amount equal to Partner's Misuse; or (ii) spends Program Funds in a manner consistent with a CAP.
 - b. COURT ORDER. A tribunal (i.e., a court of competent jurisdiction or an arbitrator) determines that Partner's use of Program Funds was permissible under this Agreement.
- 10.2.3.4. EXAMPLES OF MISUSE AND NON-MISUSE. The following are examples of expenditures that constitute Misuse under this subsection: using Program Funds to repair roads, hire corrections or parole officers, or to pay for public improvements unrelated to the provision of SHS. The following examples do not constitute Misuse: spending Program Funds on eligible SHS programs but differently than as described in the Plan or Annual Work Plan, provided the spending does not materially deviate from the approved Local Implementation Plan or Material Plan Amendment; spending less than provided for in an applicable Annual Program Budget because of insufficient Program Funds received from Metro; reserving Program Funds over multiple Fiscal Years to pay contractual, project-based rent assistance requirements; spending Program Funds on SHS programming but through other departments or agencies, such as on behavioral health services for people experiencing homelessness, and spending on juvenile homelessness; spending Program Funds on capacity building; and spending Program Funds on debt service for loans benefitting a SHS program.
- 10.2.3.5. CORRECTIVE ACTION PLAN-BASED WITHHOLDING. Upon completion of the dispute resolution process set forth in **Section 10**, if Partner fails to comply with a CAP, then Metro may temporarily withhold an amount equal to the under-expenditure until Partner corrects the under-expenditure by spending Program Funds in accordance with its CAP.
- 10.2.3.6. PROGRAM FUNDS RE-ALLOCATION FOR BREACH. Metro may re-allocate Program Funds withheld from one County (the "Repudiating County") and disburse those Program Funds to one or more other Counties to be used within the boundaries of the Repudiating County if a majority of the Counties' delegations to the Executive Committee find that the Repudiating County has anticipatorily repudiated the Agreement. If a majority of the Counties' delegations find that an anticipatory repudiation has occurred, then the following process applies:

- a. Metro and the County or Counties receiving re-allocated Program Funds may execute an amendment to the Agreement to describe the relevant terms for and to implement the re-allocation; or
- b. Metro and the County or Counties receiving re-allocated Program Funds may implement the re-allocation with the signed, written approval of their chief elected officials on a document describing the relevant terms governing the re-allocation and use of Program Funds.

The Repudiating County may seek dispute resolution of that matter in accordance with **Section 10.1** or, at the Repudiating County's discretion, may immediately file suit with a court of competent jurisdiction (or commence arbitration, if agreed to by all parties) challenging the determination that the Repudiating County anticipatorily repudiated the Agreement.

11. GENERAL PROVISIONS.

- 11.1. COOPERATION OF GOVERNMENT UNITS. This Agreement is an intergovernmental agreement subject to Chapter 190 of the Oregon Revised Statutes. The Agreement is an authorization by a public body under ORS 190.010 for a Party to perform one or more inherent governmental responsibilities for another Party.
- 11.2. ACCESS TO, MAINTENANCE OF RECORDS. Each Party is allowed access to the books, documents and other Records of the other Party that are related to this Agreement for the purpose of examination, copying and audit, unless otherwise limited by law. The Parties will retain, maintain, and keep accessible all Records for a minimum of seven years following Agreement termination, unless a longer period of time is required under law. The Parties will maintain financial Records in accordance with generally accepted accounting principles.
- 11.3. MEDIA RELEASES, PUBLIC ACKNOWLEDGMENT. The Parties acknowledge the value in coordinating public communications about the SHS program and will make reasonable efforts to provide notice to each other prior to issuing press releases, holding press conferences, or engaging in other pre-planned public communications about the program. The Parties will use reasonable efforts to notify each other prior to releasing communications between the Parties to the public. Similarly, each Party will make reasonable efforts to publicly recognize the other and the SHS program in any publications, media presentations, or other presentations relating to or describing SHS programs and services supported by Income Taxes, including and as applicable by providing a speaking opportunity for the elected official(s) for the district in which a Party-organized event occurs.
- 11.4. NOTICE. A notice or communication under this Agreement by a Party to another Party is sufficiently delivered if sent with all applicable postage or delivery charges prepaid by: (a) personal delivery; (b) sending a confirmed email copy (either by automatic electronic confirmation or by affidavit of the sender) directed to the email address of the Party set forth below; (c) registered or certified U.S. mail, return receipt

requested; or (d) delivery service or “overnight delivery” service that provides a written confirmation of delivery, each addressed to a Party as set forth in **Exhibit 4**.

Each Party may specify a different address for subsequent notice purposes. Notice is deemed effective on the earlier of actual delivery or refusal of a Party to accept delivery, provided that notices delivered by email are not deemed effective unless the individual to whom an email is sent confirms receipt of the email.

- 11.5. SUCCESSORS; NO ASSIGNMENT, THIRD-PARTY BENEFICIARIES. This Agreement binds each Party, its successors, assigns and legal representatives. No Party may voluntarily assign or transfer its obligations to any third-party. Nothing in this Agreement provides any benefit or right to any non-party unless such third-person is individually identified by name in this Agreement and expressly described as an “intended third-party beneficiary” of this Agreement.
- 11.6. ADHERENCE TO LAW. The Parties will adhere to all applicable federal and state laws in all activities under this Agreement.
- 11.7. WAIVERS. No waiver made by a Party with respect to performance, or the manner or time of performance, of any obligation of another Party or any condition under this Agreement will be considered a waiver of any other rights of the Party making the waiver or a waiver by any other Party. No waiver by a Party of any provision of this Agreement will be of any force or effect unless in writing and no waiver may be construed to be a continuing waiver.
- 11.8. TIME OF THE ESSENCE. Time is of the essence of this Agreement.
- 11.9. CHOICE OF LAW AND FORUM. This Agreement will be construed in accordance with the laws of the state of Oregon and any action brought under this Agreement will be brought in Multnomah County, Oregon, if in state court, and in the United States District Court for the District of Oregon in Portland, if brought in federal court.
- 11.10. MODIFICATION OR AMENDMENT. This Agreement may only be modified or amended by a writing signed by each of the Parties. No modification or amendment to any provision of this Agreement may be implied from any course of performance, any acquiescence by any Party, any failure of any Party to object to another Party’s performance or failure to perform, or any failure or delay by any Party to enforce its rights.
- 11.11. HEADINGS. Any titles of the sections of this Agreement are inserted for convenience of reference only and will be disregarded in construing or interpreting its provisions.
- 11.12. COUNTERPARTS; ELECTRONIC TRANSACTION. This Agreement may be executed in counterparts, each treated as an original, and the counterparts will constitute one document. The Parties agree that they may conduct this transaction, including any amendments or extension, by electronic means including the use of electronic signatures and facsimiles.

- 11.13. SEVERABILITY. If any term or provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, that holding does not invalidate or render unenforceable any other provision of this Agreement.
- 11.14. CONSTRUCTION AND INTERPRETATION. To the extent consistent with the context, words in the singular include the plural, words in the masculine gender include the feminine gender and the neuter, and vice versa. All provisions of this Agreement have been negotiated at arm's length, and this Agreement may not be construed for or against any Party by reason of the authorship or alleged authorship of any provision of this Agreement.
- 11.15. IMPLEMENTATION. The Parties agree to take all actions and execute all documents necessary to effect the terms of this Agreement.
- 11.16. NO ATTORNEY FEES. Each Party is responsible for its own attorneys' fees and expenses to enforce any term of this Agreement in the event any arbitration, action or proceeding (including any bankruptcy proceeding) is instituted.
- 11.17. RELATIONSHIP OF PARTIES. Nothing in this Agreement nor any acts of the Parties under this Agreement may be deemed or construed by the Parties, or by any third person, to create the relationship of principal and agent, or of partnership, or of joint venture or any association between any County and Metro.
- 11.18. FORCE MAJEURE. Neither Party shall be in default of the Agreement by reason of any failure or delay in the performance of its obligations where such failure or delay is caused by circumstances or causes beyond a Party's reasonable control including, but not limited to, civil disturbances, riot, rebellion, invasion, epidemic, hostilities, war, terrorist attack, embargo, natural disaster, acts of God, flood, fire, sabotage, fluctuations or non-availability of electrical power, heat, light, air conditioning or equipment, loss and destruction of property.

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SUPPORTIVE HOUSING SERVICES INTERGOVERNMENTAL AGREEMENT
Signatures

Metro Regional Government

Approved as to form

Marissa Madrigal, Chief Operating Officer

Date: _____

Carrie MacLaren, Metro Attorney

Date: _____

Multnomah County

Approved as to form

Deborah Kafoury, Chair

Date: _____

Jenny Madkour, County Attorney

Date: _____

EXHIBIT 1
Ballot Measure 26-210

The People of Metro ordain as follows:

SUPPORTIVE HOUSING SERVICES OVERVIEW

SECTION 1. Title

The provisions contained herein are to administer the Metro Supportive Housing Services Revenue, referred to as the “Supportive Housing Services Revenue.”

SECTION 2. Finding of Metropolitan Concern

Homeless and housing services is a matter of metropolitan concern over which Metro may exercise jurisdiction.

SECTION 3. Purpose

The Supportive Housing Services Revenue will fund services for people experiencing homelessness and housing instability.

PROGRAM IMPLEMENTATION

SECTION 4. Services and Priorities

Supportive Housing Services Revenue will fund Supportive Housing Services, including: street outreach services; transition and placement services; in-reach, basic survival support, and mental health services; interventions and addiction services (crisis and recovery); physical health services; interventions for people with physical impairments and disabilities; short and long-term rent assistance; eviction prevention; financial literacy, employment, job training and retention education; peer support services; workplace supports; benefits, navigation and attainment (veteran benefits, SSI, SSDI, other benefits); landlord tenant education and legal services; fair housing advocacy; shelter services; bridge/transitional housing placement; discharge interventions; permanent supportive housing services; affordable housing and rental assistance and other supportive services. Supportive Housing Services Revenue and Supportive Housing Services will first address the unmet needs of people who are experiencing or at risk of experiencing long-term or frequent episodes of homelessness. Supportive Housing Services Revenue and Supportive Housing Services will be prioritized in a manner that provides equitable access to people of color and other historically marginalized communities.

SECTION 5. Oversight Committee

1. **Committee Established.** A 20-member regional oversight committee (hereafter, “Supportive Housing Services Regional Oversight Committee” or “Regional Oversight Committee”) will oversee the Supportive Housing Services Program.
2. **Purpose and Authority.** The purpose and authority of the Supportive Housing Services Regional Oversight Committee is to:
 - a. Evaluate local implementation plans, recommend changes as necessary to achieve program goals and guiding principles, and make recommendations to Metro Council for approval;
 - b. Accept and review annual reports for consistency with approved local implementation plans;
 - c. Monitor financial aspects of program administration, including review of program expenditures; and
 - d. Provide annual reports and presentations to Metro Council and Clackamas, Multnomah, and Washington County Boards of Commissioners assessing performance, challenges, and outcomes.
3. **Membership.** The Supportive Housing Services Community Oversight Committee is composed of 20 members, as follows:
 - a. Five members from Clackamas County.
 - b. Five members from Multnomah County.
 - c. Five members from Washington County.
 - d. One representative from each of the Clackamas, Washington, and Multnomah County Board of Commissioners and the Portland City Council to serve as ex officio members.
 - e. One member of the Metro Council to serve as a non-voting delegate.
4. **Membership Representation.** The membership must be composed of persons who represent the following experiences, organizations and qualities:
 - a. Has experience overseeing, providing, or delivering Supportive Housing Services;
 - b. Has lived experience of homelessness or severe housing instability;
 - c. Has experience in the development and implementation of supportive housing and other services;
 - d. Has experience in the delivery of culturally-specific services;
 - e. Represents the private-for-profit sector;
 - f. Represents the philanthropic sector;
 - g. Represents communities of color, Indigenous communities, people with low incomes, immigrants and refugees, the LGBTQ+ community, people with disabilities, and other underserved and/or marginalized communities; and

h. Represents a continuum of care organization.

A person may represent more than one of the subsections above. The membership must have broad representation and geographical diversity.

5. Terms. Nine of the initial Committee members will serve a one year term, and the Council may reappoint those nine members for up to two additional two-year terms.
6. Oversight Committee Review. Metro may conduct a review of the regional oversight committee's role and effectiveness as appropriate.

SECTION 6. Local Implementation Plans

1. Local implementation plans are intended to document the proposed use of funds and how these uses align with the purposes of the Supportive Housing Services Measure. A plan must be submitted to the Oversight Committee for review and approval before the Metro Council approves it.
2. Local implementation plans must be developed using locally convened and comprehensive engagement processes that prioritize the voices of people with lived experience and from communities of color.
3. The locally convened body that develops the local implementation plan must include a broad array of stakeholders to develop the plan. Each county may convene a new committee or use a standing committee if the standing committee can demonstrate a track record of achieving equitable outcomes in service provisions to regional oversight committee.
4. Members of the convened body that develops the local implementation plan must include:
 - a. People with lived experience of homelessness and/or extreme poverty;
 - b. People from communities of color and other marginalized communities;
 - c. Culturally responsive and culturally specific service providers;
 - d. Elected officials, or their representatives, from the county and cities participating in the regional affordable housing bond;
 - e. Representatives from the business, faith, and philanthropic sectors;
 - f. Representatives of the county/city agencies responsible for implementing homelessness and housing services, and that routinely engage with the unsheltered population;
 - g. Representatives from health and behavioral health who have expertise serving those with health conditions, mental health and/or substance use disorder from culturally responsive and culturally specific service providers; and
 - h. Representation ensuring geographical diversity.

5. Local implementation plans must include the following:
 - a. A strategy for equitable geographic distribution of services within the respective jurisdictional boundary and the Metro district boundary.
 - b. A description of how the key objectives of Metro's Strategic Plan to Advance Racial Equity, Diversity, and Inclusion have been incorporated. This should include a thorough racial equity analysis and strategy that includes: (1) an analysis of the racial disparities among people experiencing homelessness and the priority service population; (2) disparities in access and outcomes in current services for people experiencing homelessness and the priority service population; (3) clearly defined service strategies and resource allocations intended to remedy existing disparities and ensure equitable access to funds; and (4) an articulation of how perspectives of communities of color and culturally specific groups were considered and incorporated.
 - c. A review of current system investments or capacity serving priority populations, an analysis of the nature and extent of gaps in services to meet the needs of the priority population, broken down by service type, household types, and demographic groups.
 - d. A description of the planned investments that includes: (1) the types of services, and how they remedy the service gap analysis; (2) the scale of the investments proposed; (3) the outcomes anticipated; and (4) the service delivery models that will be used in each area of service.
 - e. A plan for coordinating access to services with partnering jurisdictions and service providers across the region.
 - f. A plan for tracking and reporting outcomes annually and as defined through regional coordination.
 - g. A plan to evaluate funded services and programs.
 - h. A description of how funds will be allocated to public and non-profit service providers, including transparent procurement processes, and a description of the workforce equity procurement standards.
 - i. A commitment that funding will be allocated as follows: (a) 75 percent for people who have extremely low incomes and one or more disabling conditions, who are experiencing long-term or frequent episodes of literal homelessness or are at imminent risk of experiencing homelessness; and (b) 25 percent for people who are experiencing homelessness or face/have substantial risk of homelessness.
 - j. A description of how the plan will remove barriers to full participation for organizations and communities by providing stipends, scheduling events at accessible times and locations, and other supportive engagement tactics.
 - k. A description of how the plan will prioritize funding to providers who demonstrate a commitment and delivery to under-served and over-represented populations, with culturally specific and/or linguistically specific services, as well as those programs that have the lowest barriers to entry and actively reach out to communities often screened out of other programs.

6. Each county must provide a report annually on its progress under the local implementation plan to the regional services oversight committee that will discuss progress towards outcomes in each of the service areas identified in the local implementation plan and a separate analysis of progress toward the implementation of the county's racial equity strategy. Reports will also include municipal investments from cities within Metro who have either increased or decreased contributions to homeless services for the priority population. Existing reports may be used.
7. Metro recognizes that each county may approach program implementation differently depending on the unique needs of its residents and communities. Therefore, it is the policy of the Metro Council that there be sufficient flexibility in implementation to best serve the needs of residents, communities, and those receiving Supportive Housing Services from program funding.

SECTION 7. Allocation of Revenue

1. After Metro has first retained funds necessary to pay for collection of the taxes, Metro may retain up to five percent of the remaining collected funds for administration and oversight as more fully described in Section 14(1).
2. After the funds have been allocated for collection, administration and oversight as set forth in subsection (1), Metro will then allocate the remaining Supportive Housing Services Revenue within each county using the following percentages: 21 1/3 percent to Clackamas County, 45 1/3 percent to Multnomah County and 33 1/3 percent to Washington County.
3. The percentages set forth in subsection (2) apply to revenue for the first two tax years. Thereafter, the percentages may be adjusted to reflect the portion of Supportive Housing Services Revenue actually collected in each county.

SECTION 8. Equity and Community Engagement

1. Metro has adopted a Strategic Plan to Advance Racial Equity, Diversity, and Inclusion which includes specific goals and objectives to ensure that all people who live, work and recreate in the greater Portland region have the opportunity to share in and help define a thriving, livable and prosperous region. A key objective throughout the strategy is a commitment to advance equity related to stable and affordable housing.
2. In implementing the Supporting Housing Services Measure, Metro will rely on the goals and objectives within the Strategic Plan to:
 - Convene regional partners to advance racial equity outcomes in supportive housing services.

- Meaningfully engage with communities of color, Indigenous communities, people with low incomes and other historically marginalized communities in establishing outcomes and implementing the Supportive Housing Services Program.
 - Produce and provide research and information to support regional jurisdictions in advancing equity efforts.
 - Increase accountability by ensuring involvement of communities of color in establishing goals, outcomes, and implementation and evaluation efforts.
 - Increase participation of communities of color in decision-making.
 - Use equity criteria in resource allocation for the Supportive Housing Services Program.
3. Metro will actively work to remove barriers for organizations and communities to ensure full participation by providing stipends, scheduling events at accessible times and locations, and other supportive engagement tactics.

SECTION 9. Prohibition on Displacement of Funds Currently Provided

1. The purpose of the Supportive Housing Services tax is to provide revenue for Supportive Housing Services in addition to revenues provided for those services by the local governments within Metro.
2. In the event that any local government within Metro reduces the funds provided for Supportive Housing Services by that local government, Supportive Housing Services Revenue may not be provided to that local government or be used to provide Supportive Housing Services within the boundaries of that local government. This section is intended to prevent any local government from using Supportive Housing Services Revenue to replace funds currently provided by that local government.
3. A local government may seek a temporary waiver from this section for good cause, including but not limited to a broad economic downturn.

TAX COLLECTION REQUIREMENTS

SECTION 10. Voter Approval Ordinance No. 20-1442; Rates; Exemptions

Metro Council Ordinance No. 20-1442 is approved as follows.

1. Personal Income Tax; Rate. Beginning tax year 2021, a tax of one percent is imposed on the entire taxable income over \$200,000 if filing jointly and \$125,000 if filing singly on every resident of the district subject to tax under ORS chapter 316 and upon the taxable income over \$200,000 if filing jointly and \$125,000 if filing singly of every nonresident that is derived from sources within the district which income is subject to tax under ORS chapter 316.

2. Business Profits Tax; Rate. Beginning tax year 2021, a tax of one percent is imposed on the net income of each person doing business within Metro.
3. Exception for Small Businesses. Persons whose gross receipts from all business income, both within and without Metro, amount to less than or equal to \$5 million are exempt from payment of the business profits tax.
4. Exemptions Required by Law. Persons whom Metro is prohibited from taxing under the Constitution or laws of the United States or the Constitution or laws of the State of Oregon, or the Metro Charter are exempt from payment of the taxes set forth in this section.

SECTION 11. Tax Must be Re-Authorized or Discontinued After Ten Years

1. Metro may assess the taxes imposed by section 10 through the tax year ending December 31, 2030.
2. After December 31, 2030, the tax will expire unless reauthorized by the voters on or before that date. After the tax expires, Metro or the entity authorized to collect the tax may continue to take all reasonable and necessary actions to ensure that taxes still owing are paid in full.

SECTION 12. Collection of Funds

1. It is Metro's intent to enter into an intergovernmental agreement with an Oregon taxing agency to collect Supportive Housing Services Revenues.
2. If Metro is unable to enter into an intergovernmental agreement for the collection of Supportive Housing Services Revenues after good faith efforts to do so, Metro may collect the funds.

SECTION 13. Use of Revenues

Unless expressly stated otherwise in this measure, Supportive Housing Services Revenues may only be used for the purposes set forth in Sections 3, 4, 12, and 14. Metro may establish a separate fund or funds for the purpose of receiving and distributing Supportive Housing Services Revenues.

SECTION 14. Administrative Cost Recovery

1. After Metro's tax collection costs are paid, Metro may retain up to five percent of the remaining funds to pay for the costs to disburse the funds and administer and oversee the program. This includes convening and supporting the regional oversight committee;

establishing a regional homelessness data collection and reporting program; and supporting tri-county regional collaboration.

2. At least annually the Regional Oversight Committee will consider whether Metro's collection and administrative costs and each county's administrative costs could or should be reduced or increased. The Regional Oversight Committee will recommend to the Metro Council at least once a year as to how Metro can best limit its collection and administrative costs.
3. In establishing a new Supportive Housing Services Revenue fund, it is the policy of the Metro Council to ensure public transparency and accountability regarding the funding, creation and implementation of this program. It is further the policy of the Metro Council to maintain low administrative costs to ensure that the maximum amount possible of the tax revenue is used to achieve the purposes of Supportive Housing Services.

SECTION 15. Use of Funds in Metro Jurisdictional Boundary Only

Although some portion of each of the three recipient counties (Multnomah, Washington and Clackamas) are outside of the Metro jurisdictional boundary, Supportive Housing Services Revenues collected may be spent only for Supportive Housing Services provided within the Metro jurisdictional boundary.

SECTION 16. Accountability of Funds; Audits

1. Each county or local government receiving funds must make an annual report to the Metro Council and the oversight committee on how funds from the taxes have been spent and how those expenditures have affected established homelessness metrics.
2. Every year a public accounting firm must conduct a financial audit of the revenue generated by the taxes and the distribution of that revenue. Metro will make public the audit and any report to the Metro Council regarding the results of the audit. Metro may use the revenue generated by the taxes to pay for the costs of the audit required under this subsection.
3. The revenue and expenditures from the taxes are subject to performance audits conducted by the Office of the Metro Auditor.

SECTION 17. Ownership of Taxpayer Information

Metro is the sole owner of all taxpayer information under the authority of this measure. The Chief Financial Officer has the right to access all taxpayer information for purposes of administration.

SECTION 18. Confidentiality

1. Except as provided in this measure or otherwise required by law, it is unlawful for the Chief Financial Officer, or any elected official, employee, or agent of Metro, or for any person who has acquired information pursuant to this measure to divulge, release, or make known in any manner any financial information or social security numbers submitted or disclosed to Metro under the provisions of this measure and any applicable administrative rules.
2. Nothing in this section prohibits the disclosure of general statistics in a form that would prevent the identification of financial information or social security numbers regarding an individual taxpayer.

SECTION 19. Examination of Books, Records or Persons

The Chief Operating Officer or its designee may examine any books, papers, records, or memoranda, including state and federal income tax returns, to ascertain the correctness of any tax return or to make an estimate of any tax. The Chief Operating Officer or its designee has the authority, after notice, to require verification of taxpayer information in order to carry out the provisions of this measure.

SECTION 20. Conformity to State Laws

1. For the personal income tax, it is Metro's policy to follow the state of Oregon laws and regulations adopted by the Department of Revenue relating to personal income tax. The Supportive Housing Services Revenue will be construed in conformity with laws and regulations imposing taxes on or measured by net income.
2. For the business profits tax, it is Metro's policy to utilize, as guidance, the Multnomah County Business Income Tax rules and procedures.
3. If a question arises regarding the tax on which this measure is silent, the Chief Operating Officer may look to state law for guidance in resolving the question, provided that the determination under state law is not in conflict with any provision of this measure or the state law is otherwise inapplicable.

SECTION 21. Tax as a Debt; Collection Authority

1. The tax imposed by this measure, as well as any penalties and interest, becomes a personal debt due to Metro at the time such liability for the tax is incurred.
2. Metro is authorized to collect any deficient taxes, interest and penalties owed. This includes initiating and defending any civil actions and other legal proceedings.

FURTHER IMPLEMENTATION

SECTION 22. Administrative Rules

The Chief Operating Officer or designee may adopt administrative rules, forms, guides and policies to further implement the provisions of this measure. Any rule adopted by the Chief Operating Officer has the same force and effect as any Metro Code provision. In adopting administrative rules, the Chief Operating Officer or designee may seek guidance from the Oregon Department of Revenue's rules and procedures and Multnomah County's business income tax's rules and procedures.

SECTION 23. Tri-County Planning

1. Metro will annually allocate a portion of resources from its administrative costs to provide the staffing and logistical support to convene and maintain a tri-county homeless services planning body. This body will develop and implement a tri-county initiative that will be responsible for identifying regional goals, strategies, and outcome metrics related to addressing homelessness in the region.
2. The counties must present to the regional services oversight committee for its approval a proposal to implement the tri-county planning requirement.
3. Each county must annually contribute no less than five percent of each of the counties' share of the Supportive Housing Services Revenue to a regional strategy implementation fund.
4. The proposed governance structure of the tri-county planning body must be inclusive of people representing at least the perspectives required in Section 6(4).
5. Within one year of the adoption of the tri-county initiative plan, and as needed thereafter, each county will bring forward amendments to its Local Implementation Plan that incorporate relevant regional goals, strategies, and outcomes measures.

DEFINITIONS

SECTION 24. Definitions

For the purpose of this measure, the terms used are defined as provided in this section unless the context requires otherwise.

Nonresident means an individual who is not a resident within the Metro jurisdictional boundary.

Person means, but is not limited to an individual, a natural person, proprietorship, partnership, limited partnership, family limited partnerships, joint venture (including tenants-in-common arrangements), association, cooperative, trust, estate, corporation, personal holding company, limited liability company, limited liability partnership or any other form of organization for doing business.

Resident means a taxpayer domiciled within the Metro jurisdictional boundary for any portion of the taxable year.

Supportive Housing Services means homeless prevention, support services and rent assistance that stabilize people experiencing homelessness and housing instability, including those specific services described in Section 4.

Supportive Housing Services Revenue means all funds received from the taxes imposed by Section 10.

Tax Year means the taxable year of a person for federal or state income tax purposes.

Taxpayer means any natural person, or married couple or head of household filing a joint return, whose income in whole or in part is subject to the tax imposed by this measure.

SECTION 25. Severability

If a court of competent jurisdiction finds any part, section or provision of this measure to be unconstitutional, illegal or invalid, that finding affects only that part, section or provision of the measure and the remaining parts, sections or provisions remain in full force and effect.

EXHIBIT 2
Local Implementation Plan

EXHIBIT 3
Metro SHS Work Plan

EXHIBIT 4
Contact Information for Notices

If to Metro:

Metro
Office of the Council President
600 N.E. Grand Avenue.
Portland, Oregon 97232
Email: lynn.peterson@oregonmetro.gov
Phone No.: 503-797-1700

and:

Metro
600 N.E. Grand Avenue.
Portland, Oregon 97232
Attn: Chief Operating Officer
Email: marissa.madrigal@oregonmetro.gov
Phone No.: 503-797-1700

With copies to:

Office of Metro Attorney
Metro
600 N.E. Grand Avenue
Portland, Oregon 97232
Attn: Carrie MacLaren
Email: Carrie.MacLaren@oregonmetro.gov
Phone No.: 503-797-1511

If to Clackamas County:

Clackamas County
Office of the County Chair
2051 Kaen Rd.
Oregon City, Oregon 97045
Email: bcc@clackamas.us
Phone No.: 503-655-8581

and:

Clackamas County
Finance Department
2051 Kaen Rd.
Oregon City, Oregon 97045
Attn: Finance Director
Email: EComfort@clackamas.us
Phone No.: 503-936-5345

With copies to:

County Attorney
2051 Kaen Rd.
Oregon City, Oregon 97045
Attn: Stephen Madkour
Email: smadkour@clackamas.us
Phone No.: 503-742-4623

If to Multnomah County:

Multnomah County
Office of the County Chair
501 N.E. Hawthorne Blvd., Suite 600
Portland, Oregon 97214
Email: mult.chair@multco.us
Phone No.: 503-988-3308

and:

Multnomah County
Finance and Risk Management Division
501 N.E. Hawthorne Blvd.
Portland, Oregon 97214
Attn: Chief Financial Officer
Email: eric.j.arellano@multco.us
Phone No.: 503-988-6229

With copies to:

County Attorney
501 N.E. Hawthorne Blvd.
Portland, Oregon 97214
Attn: Jenny Madkour
Email: jenny.m.madkour@multco.us
Phone No.: 503-988-3138

If to Washington County:

Washington County
Office of the County Chair
155 N First Avenue, Suite 300
Hillsboro, Oregon 97124
Email:
kathryn_harrington@co.washington.or.us
Phone No.: 503-846-8681

and:

Clackamas County
Finance and Risk Management Division
155 N First Avenue, Suite 300
Hillsboro, Oregon 97124
Attn: Chief Financial Officer
Email: ethel_gallares@co.washington.or.us
Phone No.: 503-846-8004

With copies to:

County Attorney
155 N First Avenue, Suite 300
Hillsboro, Oregon 97124
Attn: Tom Carr
Email: Tom_Carr@co.washington.or.us
Phone No.: 503-742-4623

**SUPPORTIVE HOUSING SERVICES
INTERGOVERNMENTAL AGREEMENT**

This SUPPORTIVE HOUSING SERVICES INTERGOVERNMENTAL AGREEMENT ("Agreement") is made by and among Clackamas County, a political subdivision of the state of Oregon ("Partner"), and Metro Regional Government, a municipal corporation of the state of Oregon ("Metro"), each a "Party" and collectively as "Parties". Capitalized terms used in the Agreement are defined in **Section 1**.

RECITALS

- A. On February 25, 2020, the Metro Council adopted Ordinance No. 20-1442, which imposed business and personal 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;
- B. Also at the Metro Council meeting on February 25, 2020, the Metro Council adopted Resolution 20-5083, which referred the business and personal income taxes in 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, and it was placed on the May 19, 2020, primary election ballot;
- C. On May 19, 2020, the Metro area voters approved the Measure, thereby approving the business and personal income taxes in Ordinance No. 20-1442;
- D. The ballot title to the Measure "direct[s] regional funding to local services agencies, require[s] community engagement to develop localized implementation plans[, and] ... [a]llocate[s] funds to counties by estimated revenue collected [from the Income Taxes] within each county ...";
- E. On December 17, 2020, Metro codified the Income Taxes in new Metro Code Chapters 7.05, 7.06, and 7.07, the programmatic elements of the Measure in Metro Code Chapter 11.01, and the Regional Oversight Committee elements in the new Metro Code Section 2.19.280; provided, however, that nothing herein will be construed as an admission that the Counties are subject to Metro Code;
- F. The Measure at Section 6 provides that each County in the Region will work with Services Providers and community partners to develop and implement programs that respond to the unique needs in their communities, as outlined in their Local Implementation Plan, and that Counties will invest SHS Revenue to achieve program goals and demonstrate outcomes (also as defined by its Local Implementation Plan), and to achieve goals and metrics for the Region once they are established by the TCPB;
- G. On June 17, 2021, the Metro Council approved Partner's Local Implementation Plan, which was enacted in accordance with the requirements of the Measure;

- H. The Income Taxes became effective on January 1, 2021. Metro began receiving initial tax revenue in Spring of 2021;
- I. The Measure contemplates that Metro will receive SHS Revenue and then disburse it to the Counties throughout the tax year, not including the amounts reasonably needed by Metro for the cost of tax collection and administration;
- J. The Parties both interpret the reference to “funds provided for Supportive Housing Services by [a] local government” found in the Measure at Section 9 to refer to “unrestricted” funds, such as revenue collected by a County from local option taxes and budgeted by that County for SHS, and to not refer to “restricted” funds, such as funds provided under federal or state grant programs, borrowed funds, or funds received from one or more third-parties under contract;
- K. Before the Parties executed this Agreement, Metro and the Counties executed a Revenue Sharing Agreement, and four extensions to that agreement, under which Metro began allocating funds from the Income Taxes to the Counties to pay for Supportive Housing Services consistent with each of the County’s Metro-approved Local Implementation Plan to allow them more time to negotiate this Agreement;
- L. The Revenue Sharing Agreement will be terminated on the earlier of this Agreement’s Effective Date or January 31, 2022;
- M. As of the Effective Date, Metro is party to a validation action in the Oregon Court of Appeals (Case No. A176666), which was appealed from a ruling in Multnomah County Circuit Court (Case No. 20CV46617) (the “Validation Action”), in which Metro prevailed. In this Validation Action, certain respondents have challenged Metro’s home rule authority to administer the Income Taxes in a particular manner, primarily how income is sourced. If the respondents are ultimately successful, a court may require Metro to administer the Income Taxes in a different manner, which could affect the individuals and businesses required to pay the taxes and the amounts received by Metro from the Income Taxes. Although any such ruling should not affect the obligations of Partner or the validity of the SHS taxes, the Parties understand that there may be some disbursement disruptions if Metro is required to change the way it administers the Income Taxes, which could include refunds of previously paid Income Taxes. The Parties will work collaboratively to mitigate any disruption; and
- N. As more specifically set forth below, the Agreement sets forth the Parties’ understandings and agreements regarding the use by the Counties of the Income Taxes to pay for supportive housing services consistent with Partner’s Local Implementation Plan.

NOW, THEREFORE, the Parties agree as follows:

AGREEMENT

1. DEFINITIONS.

- 1.1. “Administrative Costs” means those costs for goods or services that benefit Partner’s delivery of SHS as a whole and cannot be attributed specifically to a particular program, as further described in **Section 3.4.2**.
- 1.2. “Administrative Expenses” means Metro’s costs to administer and oversee the SHS program, as more specifically described in **Section 3.4.1**.
- 1.3. “Agreement” means this Supportive Housing Services Intergovernmental Agreement.
- 1.4. “Annual Program Report” means the annual report prepared and presented by Partner as set forth in **Section 7.1.1**.
- 1.5. “Annual Program Budget” means the annually-prepared budget detailing Partner’s Budgeted Program Funds for a designated Fiscal Year, as set forth in **Section 5.5.2**.
- 1.6. “Annual Work Plan” means the annually-prepared plan detailing Partner’s plans for SHS programming in a designated Fiscal Year, as set forth in **Section 5.3**.
- 1.7. “Budgeted Program Funds” means Program Funds anticipated to be received by Partner in a Fiscal Year, as forecast by the Metro CFO in consultation with FRT members, off which Partner’s Annual Program Budget is based. These may include funds budgeted for Partner’s Regional Strategy Implementation Fund, a contingency reserve described in **Section 5.5.5**, and its Administrative Costs, in addition to funds budgeted for programmatic purposes.
- 1.8. “CFO” means a Party’s Chief Financial Officer.
- 1.9. “Corrective Action Plan” or “CAP” means the process and document developed by the Parties to achieve desired SHS program outcomes after it is determined that Partner is not meeting its programming or financial obligations, as set forth in **Section 6.3.5**.
- 1.10. “Counties” means, collectively, the state of Oregon municipal subdivisions of Clackamas, Multnomah, and Washington counties.
- 1.11. “County” means any one of the state of Oregon municipal subdivisions of Clackamas, Multnomah, and Washington counties.
- 1.12. “Effective Date” means the date the Agreement is executed by the Parties.
- 1.13. “Executive Committee” means the body comprised of representatives from the Counties and Metro and tasked with addressing ongoing and specific SHS program implementation improvement needs, as further provided in **Section 8.1**.
- 1.14. “Financial Review Team” or “FRT” means the CFOs for the Counties and Metro, as more specifically described in **Section 6.2**.
- 1.15. “Fiscal Year” or “FY” means the twelve-month period beginning July 1 and continuing through June 30.

- 1.16. “Income Taxes” mean the personal and business income taxes levied by Metro under Metro Code Chapters 7.06 and 7.07, which were approved by the voters in the Measure.
- 1.17. “Local Implementation Plan” or “Plan” means the Partner document that establishes the proposed use of Program Funds and how these uses align with the purposes of the SHS program and Measure, approved by Metro Council and attached as **Exhibit 2**.
- 1.18. “Material Plan Amendment” means a revision to a Metro Council-approved Local Implementation Plan that changes its guiding values, or significantly changes its goals, practices, or investment priorities.
- 1.19. “Measure” is Ballot Measure 26-210, which was approved by voters on May 19, 2020. A copy of the Measure is attached to the Agreement as **Exhibit 1**.
- 1.20. “Metro SHS Work Plan” means Metro’s SHS Work Plan adopted by the Metro Council by Resolution 20-5148 on December 17, 2020, and as amended from time to time. A copy of the Metro SHS Work Plan is attached to the Agreement as **Exhibit 3**.
- 1.21. “Program Funds” means funds available to a Local Implementation Partner, which generally consists of the SHS Revenue minus Metro’s Administrative Expenses.
- 1.22. “Quarterly Progress Report” means the report prepared and presented by Partner as set forth in **Section 7.1.2**.
- 1.23. “Records” means information prepared, owned, used, or retained by a Party, and pertaining to their respective operations and business related to the Agreement that is inscribed on a tangible medium commonly a document, or that is stored in an electronic or other medium and is retrievable in perceivable form.
- 1.24. “Region” means the territory within the Metro jurisdictional boundary as it exists on the Effective Date and any territory later annexed or subjected to Metro governance under state law.
- 1.25. “Regional Strategy Implementation Fund” means a fund created and held by each County for investment in regional goals, strategies, and outcomes identified by the TCPB and as described in **Section 8.3.3**.
- 1.26. “Regional Oversight Committee” or “ROC” means the committee that provides programmatic guidance, monitors programmatic expenditures and evaluates outcomes of the SHS program.
- 1.26.1. “ROC Charter” means the document, initially attached to the Metro SHS Work Plan as Addendum B, as may be subsequently amended.
- 1.27. “Services Providers” are local housing authorities, cities, and the Counties, to the extent that they provide SHS, and those third-party organizations that Partner contracts with to provide SHS.
- 1.28. “SHS Revenue” means all funds received from the taxes imposed by Metro Code Chapters 7.06 and 7.07 (including delinquent interest and penalties) collected in a given tax year.

- 1.29. “Stabilization Reserve” means a fund created under **Section 5.5.3** to provide funding for Budgeted Program Funds in future years if actual Program Funds fall below budgeted estimates.
- 1.30. “Supportive Housing Services” or “SHS” means homeless prevention, support services and rent assistance that stabilize people experiencing homelessness and housing instability, as further described in the Metro SHS Work Plan and the Measure at Section 4.
- 1.31. “Tri-County Planning Body” or “TCPB” means a body of stakeholders and technical experts convened to develop and implement the Tri-County Plan that will be responsible for identifying regional goals, strategies, and outcome metrics related to addressing homelessness in the Region.
- 1.31.1. “TCPB Charter” means the document agreed to between Metro and the Counties that sets forth the Parties’ performances, rights, and obligations, with respect to the TCPB; the functions of the TCPB; and the manner and practices that describe how the TCPB will operate and be governed.
- 1.32. “Tri-County Plan” is the regional plan prepared by the TCPB that will identify regional goals, strategies, and outcome metrics related to addressing homelessness in the Region.
2. EFFECTIVE DATE, TERM, EXTENSION, TERMINATION. The Agreement is effective as of the Effective Date and continues through June 30, 2031 (“Term”). The Parties may by mutual agreement extend the term of this Agreement beyond June 30, 2031.
- 2.1. TERMINATION. The Parties may jointly terminate this Agreement if they determine that such action is in the public interest. Termination under this provision is effective only upon the mutual, written termination agreement signed by both the Parties. Subject to any negotiated and agreed upon wind down provisions, including those in **Section 2.2**, this Agreement is automatically terminated within 90 days of any of the following:
- 2.1.1. The effective date of any repeal of the Measure by Metro voters;
- 2.1.2. The effective date of any amendment to the Measure by Metro voters, if the amendment invalidates or is otherwise in conflict with a material term of the Agreement and where the conflict effectively invalidates the Parties’ agreement; or
- 2.1.3. A final ruling by a court of last resort that the imposition or collection of the Income Taxes is invalid. This subsection does not apply to any lower court ruling or any ruling that does not invalidate the entire SHS program, including the Income Taxes.
- 2.1.4. If this Agreement is terminated, the Parties will collaboratively develop a plan for an orderly wind-down of the SHS program as set forth in **Section 2.2**. Unless otherwise agreed between the Parties, Partner must deliver to Metro within 60 days

of the termination date all unobligated Program Funds, required reports, and financial data.

The obligations set forth in **Section 9**, and the right in **Section 5.5.4**, survive the expiration or earlier termination of this Agreement, as does Partner's ability to spend down Program Funds where: (a) Partner committed to spend the funds under a contract signed prior to termination; (b) the contract's SHS-related performances extend beyond Agreement termination; and (c) Partner has budgeted to meet the payment requirement(s) with SHS funds.

- 2.2. **WIND-DOWN**. The Parties expressly acknowledge and agree that even after a termination or expiration of the Term of the Agreement, Metro may collect Income Taxes and allocate Program Funds to Partner. As a result, the Parties agree to the following wind-down process following termination or expiration of the Term of the Agreement:
 - 2.2.1. **PROCESS**. The Parties will collaboratively develop a plan for an orderly wind-down of the SHS program with the goal of mitigating the impact that Agreement termination could have on the individuals served by the SHS program and on the Services Providers reliant on Program Funds. Each Party shall bear its respective costs associated with wind-down planning and each will work cooperatively with the other Party in the coordination of efforts. The planning will also identify and address any ongoing program reserve needs (such as for contractual, project-based rent assistance requirements), return of unobligated funds, personnel, capital equipment, workload and any other issues related to winding-down the SHS program.
 - 2.2.2. **REASONABLE EFFORTS TO AVOID PROGRAM DISRUPTION**. If the Agreement terminates, regardless of the reason, the Parties will make reasonable efforts to prevent undue harm to the Regional homeless services systems, structures, and to those receiving SHS at the time of the termination. The Parties will make reasonable efforts to ensure that such Partner obligations are met in the event the Agreement is terminated.
 - 2.3. **SUSPENSION**. In the event Metro receives notice of an actual or threatened lawsuit challenging the validity of the Income Taxes, the Parties will work in good faith to minimize the impacts of that lawsuit on current SHS programs. In the event a court of competent jurisdiction issues a judgment that the Income Taxes are invalid, Metro may suspend disbursements of Program Funds to the minimum amount necessary to comply with the applicable court order and, to the maximum extent practicable, avoid SHS program disruption as set forth in **Section 2.2.2**.
3. **INCOME TAX COLLECTIONS, ALLOCATIONS, ADMINISTRATION**.
 - 3.1. **LEVY, COLLECT INCOME TAXES**. Except as otherwise provided in **Section 2.2**, for so long as there are uncollected Income Taxes, Metro will collect, or contract with a third-

party to collect, the Income Taxes unless Metro determines that collection is not financially prudent.

- 3.2. PROGRAM FUNDS DISBURSEMENTS. After the Effective Date Metro will disburse Program Funds to Partner on a monthly basis. Partner recognizes that Metro cannot guarantee any specific disbursement amount given the uncertainties regarding the amount of revenue that Metro will ultimately collect in any given year from the Income Taxes. Unless adjusted according to **Section 3.3** or **Section 3.5**, Metro will allocate Program Funds to the Counties as follows: 21 1/3% to Clackamas County, 45 1/3% to Multnomah County, and 33 1/3% to Washington County.
- 3.3. PROGRAM FUNDS ALLOCATIONS ADJUSTMENT. After FY 2022-23, the Counties and Metro will work cooperatively to establish a process for a review of the allocation percentages in **Section 3.2**.
- 3.4. ADMINISTRATION.
- 3.4.1. ADMINISTRATIVE EXPENSES. After Metro's Income Tax collection expenses are paid, Metro may retain up to 5% of the remaining funds to pay the expenses to disburse the funds and administer and oversee the program. This includes the expenses to convene and support the ROC and TCPB; establish a regional homeless data collection and reporting program; support tri-county regional collaboration; and fund audit expenses. The Parties also agree that Metro cannot use Administrative Expenses to deliver SHS.
- 3.4.2. ADMINISTRATIVE COSTS. Partner may use Program Funds to pay for its Administrative Costs. Metro recommends, but does not require, that in a given Fiscal Year Administrative Costs should not exceed: for SHS, 5% of annual Program Funds allocated to Partner, consistent with guidelines for similar programs funded by the state of Oregon; and, for administering long-term rent assistance programs, 10% of annual Program Funds allocated by Partner for long-term rent assistance, consistent with guidelines for similar programs funded by the U.S. Department of Housing and Urban Development and the state of Oregon. Partner will support all amounts billed as Administrative Costs by actual costs. Administrative Costs include, but are not limited to:
- 3.4.2.1. Senior management personnel salaries and benefits (unless they are directly involved in SHS program operations);
- 3.4.2.2. Administrative staff travel costs;
- 3.4.2.3. General services such as human resources, accounting, budget development, procurement, marketing, agency audit, and agency insurance;
- 3.4.2.4. Partner-wide membership fees and dues specific to homeless systems and programs;
- 3.4.2.5. General Partner facilities costs (including those associated with executive positions), such as rent, depreciation expenses, and operation and maintenance (as part of Partner's direct or indirect cost allocation plan);

3.4.2.6. Equipment rental/purchase, insurance, utilities, and information technology costs that are not program specific but relate to Partner administration as a whole; and

3.4.2.7. Any other costs not specifically attributed to a particular SHS program or program delivery.

3.5. RE-ALLOCATION OF PROGRAM FUNDS AFTER REPUDIATION. Notwithstanding **Section 3.2**, Metro may re-allocate Program Funds withheld from one County and disburse those Program Funds to one or more different Counties in the event that the County whose Program Funds are being re-allocated has anticipatorily repudiated the Agreement, as further described in **Section 10.2.3.6**.

4. USE OF INCOME TAXES.

4.1. PROGRAM FUNDS USE. Partner will use Program Funds to develop and implement its SHS program in accordance with this Agreement and its Plan. Although some portion of each of the Counties are outside of the Region, Partner may only spend Program Funds for SHS provided within the Region. The temporary provision of services outside the Region for a duration less than 90 days for a client who has been living in the Region is permitted after May 1, 2022, if SHS in the Region are not otherwise available to the client. Payments to individuals or businesses located outside the Region are allowed, provided the SHS are delivered within the Region. Recognizing that other unusual situations may arise where expending Program Funds outside the Region may be necessary and appropriate after May 1, 2022, Metro will establish an exception process through which the Counties may seek pre-approval for such expenditures. Partner will reasonably monitor the performances of its third-party Services Providers to ensure their performances under contracts funded, in whole or in part, with Program Funds meet the requirements of this section.

Examples of permitted payments include: rent assistance for housing located in the Region that is paid to landlord in Seattle; hiring a technical assistant that is located in Ohio, but delivering a service or product to a person or program in the Region; assisting an individual who presents as homeless in Beaverton, but who just got off a bus from New York, and needs help getting back to New York to achieve stable housing.

Examples of prohibited uses of Program Funds include: rent assistance to a person who formerly lived in Beaverton, but has moved to Seattle (even if the landlord is located in Gresham); mental health services delivered at a clinic in North Plains for a client who lives in Tualatin; assisting an individual who presents as homeless in New York to return to Beaverton.

4.2. SPENDING ON INITIAL SHS COSTS. Anticipating receipt of Program Funds, Partner incurred certain expenses and costs associated with providing SHS, building administrative and staffing capacity to provide SHS, and supporting its SHS programs. Partner may pay for these initial SHS costs through transfers of funds, loans, or other forms of financing until sufficient Program Funds are received by Partner, after which

point Partner may use Program Funds to reimburse its initial SHS costs. Metro further agrees that initial SHS costs are not considered a part of Partner's existing SHS program for purposes of the Measure's prohibition against displacement of funds set forth in **Section 5.5.1**.

- 4.3. **DEBT SERVICE COSTS**. Metro recognizes that Partner may incur internal or external debt to implement its SHS program. The costs of debt, including debt interest and issuance costs, in which Partner used the debt proceeds solely on SHS program implementation beginning January 1, 2021, or later, are an allowable use of Program Funds and an allowable SHS program cost, provided such debt costs are included in the Annual Program Budget for the Fiscal Years in which the costs are incurred.

5. **SHS PLANNING, BUDGETING**.

- 5.1. **METRO SHS WORK PLAN**. Metro will implement its SHS program in a manner that is consistent with the Metro SHS Work Plan. To avoid ambiguity, and except where a specific portion of the plan is clearly identified and referenced in the Agreement, Partner is not required to comply with any performances, rights, or obligations set forth in the Metro SHS Work Plan.

- 5.2. **LOCAL IMPLEMENTATION PLAN**. A Local Implementation Plan is required to describe the priorities and strategies that will shape Partner's use of Program Funds and how these uses align with the purposes provided for in the Measure at Section 3 and the Metro SHS Work Plan. Partner's approved Plan is attached as **Exhibit 2**. Partner agrees to use Program Funds as set forth in its Local Implementation Plan.

- 5.2.1. **MATERIAL PLAN AMENDMENT APPROVAL PROCESS**. The approval process for Material Plan Amendments is as follows:

5.2.1.1. Partner develops the Material Plan Amendment using a locally convened community engagement process, as described in the Measure at Section 6, and submits the Material Plan Amendment to its advisory body (i.e., its board of county commissioners) for review and approval;

5.2.1.2. Partner submits the County-approved Material Plan Amendment to the ROC for its review and recommendation;

5.2.1.3. The ROC either recommends to Metro approval or denial of the Material Plan Amendment; and

5.2.1.4. Metro Council then approves or denies the Material Plan Amendment. If denied, Partner must submit a new Material Plan Amendment or initiate the dispute resolution process in **Section 10.1**.

- 5.2.2. **PLAN AMENDMENTS**. If Partner seeks a Material Plan Amendment, it must follow the approval process set forth in **Section 5.2.1**. Partner may request that Metro waive the process to implement a temporary Material Plan Amendment upon a Metro finding that a delay would seriously impact Partner's ability to implement the current Plan or adequately address an ongoing service need. A waiver of the

approval process requirement for a Material Plan Amendment is effective for no more than nine months from the date Metro granted the waiver. Partner is not required to amend the goals described in its Plan for the first year of SHS programming. After that first year, changes based on insufficient Income Tax revenue will be reflected in changes to relevant Annual Work Plans.

5.2.2.1. Partner will notify the ROC and Metro of changes to its Plan that are not Material Plan Amendments by submitting a copy of the approved amended Plan. If, after consultation with the ROC, Metro determines the amendment is a Material Plan Amendment, Metro must notify Partner of its finding within 60 days of the submittal. Partner may initiate the dispute resolution process in **Section 10.1** if it disagrees with Metro's determination. If Partner does not, within 30 days of receiving Metro's notification, dispute Metro's determination that an amendment to a Plan is a Material Plan Amendment, then the amendment will not be effective unless Partner obtains approval for the amendment as set forth in **Section 5.2.1**.

5.2.2.2. The Parties acknowledge and agree that, given the nature of Local Implementation Plans, an amendment request under **Section 5.2.2** or **5.2.2.1** should be rare; and, given the very time intensive nature of approving amendments, the Parties will rely on the Annual Work Plan process to make Plan adjustments whenever feasible.

5.2.3. AMENDMENTS TO PLAN SOUGHT BY ROC, METRO. Within 60 days of the date that Partner presents its Annual Program Report to Metro Council, Metro or the ROC may, in consultation with the other, request that Partner amend its Local Implementation Plan based on one or more ROC recommendations or a significant change in circumstances impacting homelessness in the Region. The request must be in writing and otherwise comply with the notice requirements in **Section 11.4** and describe in sufficient detail the purpose for the proposed amendment.

5.2.3.1. Partner will timely respond to a request for an amendment to its Local Implementation Plan and either: (a) agree to draft an amendment to its Plan that is responsive to the request; (b) decline the request for an amendment and explain why the amendment is not needed; or (c) propose an alternative approach that Partner feels is responsive to the purpose described by the ROC or Metro in its proposal. Plan amendments under this **Section 5.2.3** must follow the process set forth in **Section 5.2.2**. If Partner declines the request for an amendment, Metro may initiate the dispute resolution process in **Section 10.1**.

5.2.3.2. The Parties acknowledge and agree that, given the nature of Local Implementation Plans, an amendment request under **Section 5.2.3** should be rare; and, given the very time intensive nature of approving amendments, the Parties will rely on the Annual Work Plan process to make Plan adjustments whenever feasible.

- 5.2.3.3. If Partner fails to timely or adequately respond to a Plan amendment request, Metro may seek dispute resolution.
- 5.2.4. AMENDMENT TO LOCAL IMPLEMENTATION PLAN REQUIRED AFTER TRI-COUNTY PLAN ADOPTED. Within one year of the adoption of the Tri-County Plan, and as needed thereafter, Partner will bring forward any necessary amendments to its Local Implementation Plan that incorporate relevant regional goals, strategies, and outcomes measures. The ROC will review the amendments and recommend approval or denial of the Plan amendments to the Metro Council. The Parties recognize and agree that, given the nature of Local Implementation Plans, amendments to the Local Implementation Plan may not be necessary, or should be rare, and that Tri-County Plan directives may more appropriately be incorporated into Partner's Annual Work Plan.
- 5.3. ANNUAL WORK PLAN. Beginning in FY 2022-23, Partner must annually submit an Annual Work Plan to Metro and the ROC for their review on or before April 1 for the subsequent Fiscal Year. Partner will prepare the Annual Work Plan using a template jointly created and approved by Metro and the Counties. In lieu of an Annual Work Plan describing implementation plans for the first Fiscal Year of the Term, Partner will provide, as part of its first Quarterly Progress Report detailed in **Section 7.1.2**, a summary of SHS implementation efforts underway and planned for the balance of that Fiscal Year. Metro will receive and review the Annual Work Plan for consistency with Partner's Local Implementation Plan, and Partner agrees to provide SHS as described in the Annual Work Plan.
- 5.4. METRO BUDGETING.
- 5.4.1. ADMINISTRATIVE EXPENSES. At least annually, Metro will prepare a written budget for its SHS program that details its use of Income Taxes and its Administrative Expenses and will present its SHS budget to the ROC. The ROC will consider whether Metro's SHS budget, its collection costs, and its Administrative Expenses could or should be reduced or increased. The ROC may recommend to the Metro Council how Metro can best limit its collection and Administrative Expenses in the following Fiscal Year.
- 5.4.1.1. SUPPORT FOR OVERSIGHT GROUPS. Metro will annually allocate a sufficient portion of resources to provide the staffing and logistical support required by the Executive Committee, FRT, ROC, and TCPB.
- 5.5. PARTNER BUDGETING.
- 5.5.1. NON-DISPLACEMENT. Partner may not Displace Current Partner-provided SHS Funds with Program Funds received by Metro under this Agreement absent Partner receiving a written waiver from Metro that good-cause exists to permit the requested Displacement. Metro will not unreasonably withhold a waiver. As part of its Annual Program Report, Partner will include a certification as to whether there was a Displacement of Current Partner-provided SHS Funds.

5.5.1.1. **OTHER FUNDS.** Partner has previously used other funds for the provision of SHS. Some of the funding is County general fund. However, other funds include, but are not limited to, various state or federal grants and other non-general fund sources. Partner will attempt, in good faith, to maintain such funding at the same levels set forth in Partner's FY 2018-19 budget. However, because the amount and availability of these other funds are outside of Partner's control, they do not constitute Partner's Current Partner-provided SHS Funds for purposes of Displacement. Partner will provide Metro with information on the amount of other funds Partner has allocated to SHS, as well as the change, if any, of those funds from the prior Fiscal Year in its Annual Program Budget.

5.5.1.2. **TERMS.** As used in **Section 5.5.1:**

- a. "**Current Partner-provided SHS Funds**" means Partner's general funds currently provided as of FY 2019-20 towards SHS programs within Partner's jurisdictional limits including, but not limited to, within the Region. "Current Partner-provided SHS Funds" expressly excludes all other sources of funds Partner may use to fund SHS programs as of FY 2019-20 including, but not limited to, state or federal grants. Apart from such general fund dollars already budgeted and used for SHS purposes as described in **Section 5.5.1**, this Agreement does not require Partner to expend or risk its own funds (other than the Program Funds it receives) or otherwise incur any financial liability in the performance of any of its duties, or in the exercise of its rights or powers hereunder.
- b. "**Displace**" or "**Displacement**" means to reduce Partner's overall, county-wide Current Partner-provided SHS Funds. Partner's reduction of funds provided towards a particular SHS program, type of SHS, or a reduction of SHS funds in a particular geographic area including, but not limited to, within the Region, is not a Displacement, provided Partner's overall Current Partner-provided SHS Funds are not reduced. The Parties agree that Partner may reduce current SHS programs currently being provided within the Region, but that reduction is not a "Displacement" and does not violate **Section 5.5.1** of this Agreement or Section 9 of the Measure, provided Partner's overall Current Partner-provided SHS Funds are not reduced.

5.5.2. **ANNUAL PROGRAM BUDGET.** As part of its Annual Program Report, Partner must submit to Metro for review an Annual Program Budget for the current Fiscal Year. In FY 2021-22, Partner will present the SHS Program Budget in a form reasonably designed to identify Budgeted Program Funds for that Fiscal Year. Starting in FY 2022-2023, Partner must submit Annual Program Budgets using a template jointly created and approved by Metro and the Counties and must include in its Annual Program Budget its "spend-down plan" for that year, as described below, and information on the amount of other funds Partner has allocated to SHS, and changes, if any, to that funding level from the prior Fiscal Year, as described in **Section 5.5.1.1**. If the Annual Program Budget is amended by Partner's governing

body, Partner must submit to Metro the amended Program Budget within 60 days of the governing body's approval. Partner agrees to provide funding for SHS as described in the Program Budget; provided, however, that Partner is only obligated to provide funding for SHS in the amounts actually received from Metro. A failure to submit an Annual Program Budget to Metro by the end of the first quarter and any material deviation from the Annual Program Budget without prior notice and explanation to Metro may be cause for Metro to initiate the dispute resolution process in **Section 10.1**.

5.5.2.1. **SPEND-DOWN PLAN**. Partner's "spend-down plan" should describe the nature and timing of planned spending of Program Funds it expects to receive in the Fiscal Year based on the FRT's forecast. In addition, the description will document existing and contemplated reserves, any program reserves, funds anticipated to be carried over for SHS programming into the following Fiscal Year(s) with the anticipated timeline for spending of those funds, and such other information as the Parties agree to in writing. Partner will report on, and explain any material deviations from, the plan reflected in its Budgeted Program Funds as part of its Quarterly Progress Report. A "material deviation" from a spend-down plan described under this section, or a CAP, arises where the Program Funds spent in a given Fiscal Year cannot be reconciled against the spend-down plan or CAP in the relevant Annual Program Budget to the degree that no reasonable person would conclude that Partner's spending was guided by or in conformance with the applicable spend-down plan or CAP.

5.5.3. **PARTNER STABILIZATION RESERVE**. Partner will establish and hold a Stabilization Reserve to protect against financial instability within the SHS program and to insulate continuing program objectives from significant revenue fluctuations. The target minimum reserve level will be equal to 10% of Partner's Budgeted Program Funds in a given Fiscal Year. Stabilization Reserve funds may be used when the Program Funds allocated to Partner fall below the budgeted estimate for that time period and based on Partner's decision, informed by the FRT's assessment under **Section 6.2.5.2**, that release of such funds is needed to prevent significant program reductions. The Stabilization Reserve for each County will be fully funded within the first three years of the Term.

5.5.4. **CONTINGENCY**. Partner may establish and hold a contingency account in addition to a Stabilization Reserve. The contingency account will provide resources for emergency situations or unplanned SHS program expenditures that, if left unattended, could negatively impact service delivery. The contingency account will not exceed 5% of Budgeted Program Funds in a given Fiscal Year.

6. **PERFORMANCE AND FINANCIAL GOVERNANCE**.

6.1. **RECORDKEEPING, CONTROLS**. Each Party must:

6.1.1. maintain Records of payments made and funds received under this Agreement;

- 6.1.2. make an annual accounting of their use of Income Taxes and provide that accounting to their respective CFOs, Metro, and the ROC, and make that accounting available for review by the Partner Auditor and the Metro Auditor, as well as by any public accounting or auditing firms retained by a Party;
 - 6.1.3. exercise the rights and powers vested in it by this Agreement and use the same degree of care and skill as a prudent person would exercise or use under the circumstances; and
 - 6.1.4. ensure that any Income Taxes (including general tax receipts or reserves) held for more than one Fiscal Year are retained in accordance with state finance law and administered according to its investment policy. All proceeds of such investments will be added to Program Funds and otherwise must be spent on SHS programs or Administrative Expenses and Administrative Costs, as appropriate.
- 6.2. FINANCIAL REVIEW TEAM. The FRT is a technical committee charged with assessing Income Tax collections and the Region's overall financial health at regular intervals and on an as needed basis in order to support Metro, the Counties, and the ROC. FRT members may consult with the Metro Economist, any County economist, or other financial professionals as they deem appropriate. The role, membership, and responsibilities of the FRT are set forth below.
- 6.2.1. ROLE. The FRT's role is to provide financial analysis and advice to Metro, the Counties, and the ROC regarding the current and prospective adequacy of Program Funds to fund SHS programs. In addition, the FRT may provide periodic advice and reporting to any County, or other Party representative, as needed, including to County elected officials and elected members of the Metro Council.
 - 6.2.2. MEMBERSHIP. The FRT is composed of four members – the CFOs, or their designees, for the Counties, and the CFO, or their designee, for Metro. FRT members will provide Metro with their contact information.
 - 6.2.3. MEETINGS. The FRT will meet quarterly, or as often as needed as agreed between the CFOs, to review Income Tax collections, revenue projections, Program Funds disbursements, partner spending activity, any requests for disbursements from Stabilization Reserves, and to meet timelines specified between the FRT members. The Metro CFO will provide notice to the members at least five business days in advance of a meeting. Meetings may be held in person or by means of telephonic or electronic communications.
 - 6.2.4. REPORTS. The FRT and its members, in making their recommendations and reports on any task, do not have to reach consensus or vote on a single recommendation and may, instead, make as many recommendations as are needed to fully describe the members' opinions or the range of options being recommended by the members. If multiple FRT written recommendations or reports are made for a task, the document memorializing their deliberations will: (a) include all recommendations and reports submitted by FRT members, with each

recommendation including a full description of the recommended action(s); and (b) indicate which member(s) support each recommendation.

6.2.5. TASKS, REVIEWS. The tasks to be performed by the FRT, the criteria to evaluate, the timing and/or frequency of tasks, and the deliverable(s) for each task, are described below. Notice, reports, or advice described in the tasks below that are required to be in writing must be transmitted via email to the appropriate individuals using the contact information in **Exhibit 4**.

6.2.5.1. TASK 1. Develop a five-year revenue and expenditure forecast and advise the ROC, Counties, and Metro, as needed.

- a. TIMING/FREQUENCY. The forecast prepared under this Task 1 will be completed and made available annually by the first business day in the month of December. The FRT may revise and or enhance the forecast on a more frequent basis as needed.
- b. FRT ACTION. The revenue and expenditure forecast prepared by the FRT under this Task 1 will support the Counties in developing annual budgets or enhancing current year estimates. The FRT will assess tax collection activity, program expenditure activity, cash flows, adequacy of their respective Stabilization Reserves, and assess the overall financial health of the SHS program. Information to be reviewed in preparing annual forecast will include but is not limited to:
 - i. Local and national key economic indicators;
 - ii. Tri-County tax collection activity (current and historical) and collection rates;
 - iii. Historical spending trends by the Counties against their respective budgets;
 - iv. Review adequacy of Stabilization Reserve funds for each County; and
 - v. Review and assess County-held SHS contingency accounts.
- c. FRT DELIVERABLES. The FRT will prepare a written summary report based on the forecast of SHS Revenues and SHS expenditures created and provided by the Metro CFO under **Section 7.2.1.1**. The FRT's report will contain a five-year revenue/expenditure forecast, current SHS Revenue collection activity, economic factors impacting tax collections, spending activity by any County subject to a CAP (as described in **Section 6.3.5**), and adequacy of each County's Stabilization Reserve.

6.2.5.2. TASK 2. The FRT will develop a policy to establish and manage Stabilization Reserve funds. The policy will be completed no later than May 2, 2022. In addition, the FRT will review the adequacy of each County's Stabilization Reserve, review and recommend policies for establishment and usage of

reserves, use of reserves, and monitor timely restoration of required reserve levels.

- a. TIMING/FREQUENCY. At least annually, the FRT will assess adequacy of reserves and review instances of reserve usage.
- b. FRT ACTION. Make recommendations, as appropriate, regarding the usage of moneys from Stabilization Reserve funds. Set plan and timeline for reserve restoration.
- c. FRT DELIVERABLE. For instances when Stabilization Reserve usage is recommended, the FRT will prepare a report detailing the recommended amount to be used, description of the economic conditions that caused revenue shortfalls, planned program usages of reserves, and timeline to restore reserve.

6.3. OBLIGATIONS OF THE PARTIES.

- 6.3.1. DUTY TO RESPOND TO REGIONAL OVERSIGHT COMMITTEE. Each Party agrees to respond to any recommendations of the ROC reasonably related to carrying out the ROC's responsibilities. The Parties may respond by providing an explanation for why it disagrees with the recommendation, or any portion of a recommendation, or by identifying proposed strategies to address the recommendation(s). The Parties will submit written responses to the ROC.
- 6.3.2. DATA SHARING AGREEMENT. The Parties will enter into a data sharing agreement no later than May 31, 2022. The purpose of the data sharing agreement is to provide the Parties, and the oversight groups described in **Section 8**, with access to disaggregated, de-identified data, or as otherwise agreed to between the Parties, that allows for meaningful review of whether the Parties are achieving progress towards measurable goals, and to further aid in certain research, planning, and program evaluation.
- 6.3.3. PERIODIC REVIEW OF AGREEMENT. The Parties agree to convene to review this Agreement periodically. Beginning on July 1, 2023, either Party may request that the Parties and other Counties meet to consider amendments to this Agreement. If a request to consider amendments is made, the Parties agree to convene and, in a timely manner, assign adequate staff resources, establish a schedule for negotiations and participate in the negotiations in good faith.
- 6.3.4. GOOD FAITH PERFORMANCE. The Parties will execute their duties to each other and the ROC and TCPB in good faith.
- 6.3.5. CORRECTIVE ACTION PLAN. If after appropriate notice and opportunity to remedy identified concerns, Metro reasonably determines that Partner is not adhering to the terms of its Plan, current Annual Work Plan or Annual Program Budget, or current spend-down plan, then Metro may, with input from the ROC and from Partner, require Partner to develop a Corrective Action Plan. In determining whether a CAP is necessary, Metro may rely upon Partner's last Annual Program

Report, Quarterly Progress Reports, its Annual Program Budget, its Local Implementation Plan, and any other relevant document. The CAP will outline the actions needed by both Parties to achieve desired program outcomes and the timeline for completion. The Metro Chief Operating Officer and a leader identified by Partner's chief executive must approve a CAP for it to become effective. If either Party fails to timely or adequately perform the actions in the CAP, or if the Parties are unable to agree on a CAP, either Party may initiate dispute resolution.

6.4. PARTNER OBLIGATIONS.

- 6.4.1. CONSISTENCY BETWEEN BUDGETING, FUNDING. Partner agrees to use Budgeted Program Funds for SHS substantially as described in its Annual Program Budget. Partner may reallocate Budgeted Program Funds across SHS budget categories as needed to achieve program goals, provided that the reallocation does not materially and adversely affect performance of Partner's Annual Work Plan. Partner must report on, and justify, any material reallocations of Budgeted Program Funds in its next Quarterly Report.
- 6.4.2. SERVICES PROVIDERS MONITORING. Partner must monitor the activities of Services Providers as is reasonable to ensure compliance with this Agreement.
- 6.4.3. FORECASTING ASSISTANCE. Partner's CFO, as part of their work on the FRT, will consult with Metro's CFO and the CFOs for the other Counties on the annual forecasts of Income Tax collections described in **Section 7.2.1.1.**
- 6.4.4. DATA COLLECTION. Partner must maintain, individually or jointly by implementation of the Counties, a Homeless Management Information System (HMIS) that satisfies relevant federal regulatory requirements and that collects participant level data on programs funded by Program Funds. Metro's access and use of this data is the subject of the data sharing agreement described in **Section 6.3.2.**

6.5. METRO OBLIGATIONS.

- 6.5.1. SUPPORT REGIONAL COMMITTEES. In order for the Counties to meet their commitments under this Agreement and achieve the objectives of the Measure, Metro will ensure that the ROC and TCPB are convened, staffed, funded, and operating.
- 6.5.2. REVIEW OF PARTNER SHS SPENDING. Metro will annually review Partner's Annual Program Report for the previous Fiscal Year to evaluate how Program Fund expenditures impacted established SHS program metrics and whether Partner's spending was consistent with its Annual Program Budget.
- 6.5.3. PARTNER MONITORING. Upon reasonable written notice to Partner, Metro may reasonably monitor up to once per Fiscal Year, or for cause, not more than 25% of the SHS program activities described in a given Fiscal Year's Annual Work Plan, including Partner's associated Records and the Records of its Services Providers for that Fiscal Year. This monitoring will be to review Partner's and its Services

Providers' compliance with the terms of this Agreement. Ahead of any monitoring event under this section, the Parties must develop a written plan describing how Metro will conduct its review. Metro may use third-parties in its monitoring activities. Partner consents to reasonable monitoring by Metro, as set forth in this section, and agrees to reasonably cooperate with reasonable requests, and to require that its Services Providers also cooperate with reasonable requests.

6.5.4. DATA REPORTING PROGRAM. As more specifically described in the data sharing agreement identified in **Section 6.3.2**, Metro will establish a regional SHS program data collection and reporting program that supports tri-county regional collaboration.

7. REPORTING REQUIREMENTS.

7.1. PARTNER REPORTING REQUIREMENTS.

7.1.1. ANNUAL PROGRAM REPORT. No later than October 31 of each year, Partner will provide an Annual Program Report for the previous Fiscal Year to the ROC and Metro Council. The report will describe how Partner spent Program Funds in the previous Fiscal Year and how those expenditures contributed to outcomes as defined by Partner's Local Implementation Plan and, once established, regional outcome metrics. Partner will prepare the Annual Program Report using a template jointly created and approved by Metro and the Counties and will include the following:

7.1.1.1. Partner's Annual Program Budget and spend-down plan for the given Fiscal Year;

7.1.1.2. A certification consistent with **Section 5.5.1** that Partner did not reduce funding commitments for SHS in the Fiscal Year;

7.1.1.3. Reporting on all required outcome and equity metrics for the Region for the Fiscal Year, regional measurable goals, and any applicable performance evaluation metrics;

7.1.1.4. A summary of SHS program investments over the Fiscal Year (if not identified in the Annual Program Budget);

7.1.1.5. An analysis of how SHS program investments have contributed to the values and goals of the SHS program;

7.1.1.6. Any strategies to adjust or augment SHS programming to improve performance and outcomes in future years; and

7.1.1.7. A list of all the Services Providers under contract with Partner that received Program Funds, and the amount of funds received by each contractor.

7.1.2. QUARTERLY PROGRESS REPORT. Beginning at the end of the first Fiscal Year quarter after the Effective Date, and no later than 45 days after the end of each Fiscal Year quarter, Partner will prepare a Quarterly Progress Report and provide

that report to the ROC and Metro. Partner will prepare the Quarterly Report using a template jointly created and approved by Metro and the Counties that will include information on progress toward local and regional metrics, budgeted spending, transfers of Program Funds between Counties, and any material changes in programming or strategy from those set out in the Annual Work Plan. For reports created before the template is available, the information to be included in the reports will be as agreed to by the Parties.

7.2. METRO REPORTING REQUIREMENTS.

7.2.1. ANNUALLY. Each Fiscal Year, Metro must prepare and submit the reports provided for below.

7.2.1.1. FIVE-YEAR FORECAST. Metro's CFO, in consultation with the FRT, must prepare a five-year revenue forecast to support the Counties in developing their annual budgets and revising current year estimates as needed. The forecast will evaluate Income Taxes collection activity, SHS program expenditure activity, cash flows, adequacy of funds in Stabilization Reserves, economic factors impacting tax collections, and the overall financial health of the SHS program. Metro will provide these forecasts to the ROC and TCPB by the first business day in December, and provide timely updates of those projections, as available.

7.2.1.2. PROGRAM FUNDS REPORT. Metro will provide an annual report to the Counties of all Income Taxes not distributed to the Counties, and a breakdown of the use of those funds, including Income Taxes used to pay for collection and Administrative Expenses.

7.2.2. MONTHLY. Monthly each Fiscal Year, Metro must provide to the Counties a report on actual Income Tax collections for the reported month, and other readily available reports. If a requested report is not readily available, Metro will make a reasonable attempt to obtain that report.

8. SHS PROGRAM GROUPS.

8.1. EXECUTIVE COMMITTEE.

8.1.1. ROLE, FUNCTIONS. The Executive Committee addresses ongoing and specific SHS program implementation improvement needs as follows:

8.1.1.1. Regularly convene meetings between representatives from the Counties and Metro with the appropriate subject matter training and SHS background to learn about and respond to matters impacting SHS program implementation as they arise. At their meetings, members may work to understand strong criticisms of the SHS program or its implementation; connect issues brought to the committee to performances, rights, and obligations in the Agreement or Measure; and otherwise discuss and provide feedback regarding SHS program matters to promote ongoing cooperative efforts between all SHS program partners.

- 8.1.1.2. As needed and described in **Section 10.1**, convene as an informal problem solving body prior to the initiation of mediation or other remedies provided for under the Agreement.
- 8.1.1.3. As described in **Section 8.2.4**, convene to assess Metro-proposed changes to the ROC after a review by Metro of the ROC's role and effectiveness.
- 8.1.1.4. As described in **Section 10.2.3.6**, convene to consider whether a County has anticipatorily repudiated the Agreement.
- 8.1.2. **MEMBERSHIP**. Each County and Metro will appoint four individuals to serve as their respective representatives on the Executive Committee. Each party's delegation should be comprised of at least one individual each with program, policy, legal, and finance expertise, as well as familiarity with the terms of the Agreement and with the SHS program, generally. Each Executive Committee member serves until they are replaced by the public body that they represent.
- 8.1.3. **MEETINGS**. Any County or Metro may call for an Executive Committee meeting, and the committee may meet as often as needed to respond to issues arising under the Agreement and meet relevant timelines or requirements in this Agreement. Not all Executive Committee members need to attend each meeting if the Counties and Metro agree on limiting attendance to certain members based on the agenda for a meeting (e.g., to members with particular expertise, such as SHS program implementation). Metro will send written notice to members, including an agenda, at least five business days before a meeting. Meetings may be held in person or by means of telephonic or electronic communications.
- 8.1.4. **ACTIONS**. Executive Committee actions are by delegation, rather than based on individual members. Unless otherwise provided in the Agreement, the Executive Committee and each Party's delegation in making their recommendations on any matter do not have to reach consensus or vote on a single recommendation but may instead make as many recommendations as are needed to fully describe the opinions or the range of options being recommended by the committee and its delegations. If multiple written recommendations are made for a matter, the document memorializing their deliberations will: (a) include all recommendations submitted, with each recommendation including a full description of the recommended action(s); and (b) indicate which delegation(s) support each recommendation. If the Agreement calls for the Executive Committee to assess a specific matter and asks for the committee's delegations to "find" or vote regarding an outcome and based on a majority view, a "majority" of the Executive Committee delegations means at least three of the four delegations support the outcome.
- 8.2. **REGIONAL OVERSIGHT COMMITTEE**.
- 8.2.1. **PURPOSE AND AUTHORITY**. The ROC is charged with the SHS program oversight functions set forth in the Measure at Sections 5(2) and 14(2).

- 8.2.2. MEMBERSHIP. Metro will work cooperatively with the Counties to select ROC members.
- 8.2.3. MEETINGS. The ROC will convene in a manner that is consistent with the ROC Charter and as frequently as needed to meet its obligations under the Measure and Agreement.
- 8.2.4. PERIODIC REVIEW. Metro may conduct a review of the ROC's role and effectiveness as appropriate. If after its review Metro concludes, in good faith, that revisions to the ROC, including to the ROC Charter, are necessary then it will provide the Executive Committee with written findings detailing the issues it believes warrant changes to the ROC, and a description of the change(s) it proposes. The Executive Committee will review Metro's proposal(s) and determine whether the proposed change(s) alter the purpose or authority of the ROC, as set forth in the Measure at Section 5(2). If a majority of the Executive Committee's delegations find that the proposed changes do not alter the purpose or authority of the ROC, then Metro may implement its proposed changes 30 days after the Executive Committee's finding. If a majority of the committee's delegations find that Metro's proposed changes alter the purpose or authority of the ROC, then the following process applies:
- 8.2.4.1. Metro and the Counties may execute an amendment to the Agreement to implement Metro's proposed changes to the purpose, or authority of the ROC; or
- 8.2.4.2. Metro may implement its proposed change(s) to the purpose, or authority of the ROC with the majority written approval of the elected officials of the Counties, as follows:
- a. Metro will incorporate its proposed change(s) to the ROC into a revised ROC Charter and then circulate a redline of its proposed revisions to the charter to the Counties for their review and approval.
 - b. Any County that is amenable to the change(s) incorporated into the revised ROC Charter circulated by Metro may agree to the change(s) by sending a letter, signed with the approval of the County's board of commissioners, that describes the approved change(s) to the ROC Charter and confirms the County's approval of such change(s).
 - c. Metro may implement its proposed change(s) to the purpose, or authority of the ROC, as set forth in the revised ROC Charter, with the written approval of two of the three Counties as set forth above.

A Party that determines that a change to the ROC, implemented by Metro without approval through the above process, is outside the purpose or authority of the ROC, or otherwise violates the Agreement, may seek dispute resolution of that matter. Disputes arising under this **Section 8.2.4** may skip the review provided for in **Section 10.1.3**.

8.3. TRI-COUNTY PLANNING BODY.

- 8.3.1. PURPOSE. Metro will convene the TCPB to strengthen coordination among the Counties and Metro in addressing homelessness in the Region. The TCPB will identify Regional goals, strategies, and outcome metrics that support Regional SHS coordination and alignment. The TCPB will approve and incorporate strategies developed and investments made by each County that reasonably accomplish the Regional goals, strategies, and outcome metrics identified by the TCPB for the Tri-County Plan, and that the Tri-County Plan's purpose will be to support the successful implementation of each County's locally developed Plan.
- 8.3.2. TCPB CHARTER. Within 120 days of the Effective Date, Metro and the Counties will finalize the TCPB Charter which will describe a proposed structure, roles, and procedures for the TCPB, to be presented to the Parties' governing bodies for approval.
- 8.3.3. REGIONAL STRATEGY IMPLEMENTATION PLAN AND FUND. Each County must contribute not less than 5% of its share of Program Funds each Fiscal Year to a Regional Strategy Implementation Fund to achieve regional investment strategies. Partner may use the 5% for expenses that are consistent with the "measurable goals" described in the Metro SHS Work Plan at Section 5.2 until such time as the TCPB has developed new or different regional goals and provided the Parties with the Tri-County Plan detailing those goals. Each Fiscal Year, Partner must describe in its Annual Program Budget its investments in regional strategies during the reporting year. Partner may reimburse itself from its Regional Strategy Implementation Fund for its investments in regional strategies. Partner may collaborate with and pay other Counties from its Regional Strategy Implementation Fund to implement regional investment strategies in the Tri-County Plan.

8.4. METRO.

- 8.4.1. FUNCTIONS. Metro provides oversight and accountability for how Program Funds are spent by Partner under the SHS program through:
- 8.4.1.1. Adoption of Metro's SHS Work Plan and any amendments thereto;
- 8.4.1.2. Approval of Local Implementation Plans and any Material Plan Amendments, as set forth in the Agreement and consistent with the mandate of providing Partner sufficient flexibility to best serve the needs of its residents, communities, and those receiving SHS;
- 8.4.1.3. Appointing ROC members as set forth in **Section 8.2.2**; and
- 8.4.1.4. Monitoring of program outcomes and metrics, with guidance from the ROC and, when formed, the TCPB.

9. RISK-SHARING.

9.1. NOTICE. If any third-party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 (a "Third-Party Claim") against a Party that one or more of the Parties may have liability, the Party against whom the Third-Party Claim was directed shall promptly notify the other Party in writing of the Third-Party Claim and provide the other Party with a copy of the claim, process and all legal pleadings with respect to the Third-Party Claim that have been received.

9.2. INDEMNIFICATION BY THE PARTIES.

9.2.1. PARTNER. Subject to the limits of the Oregon Tort Claims Act (OTCA) and the Oregon Constitution, Partner shall indemnify and hold harmless Metro and its officers, agents, and employees, or any of them from any and all liability, loss, costs, expenses, and damages of any nature whatsoever, by any reason of or arising out of any act or omission of Partner, its officers, agents, and employees, or any of them relating to or arising from Partner's performances under the Agreement. In the event that any suit based upon such a Third-Party Claim is brought against Metro, Partner shall defend the same at its sole cost and expense; provided that Metro reserves the right to participate in said suit if any principle of governmental or public law is involved; and if final judgment be rendered against Metro, and its officers, agents, and employees, or any of them, or jointly against Metro and Partner and their respective officers, agents, and employees, or any of them, Partner shall satisfy the same.

9.2.2. METRO. Subject to the limits of the OTCA and the Oregon Constitution, Metro shall indemnify and hold harmless Partner and its officers, agents, and employees, or any of them from any and all liability, loss, costs, expenses, and damages of any nature whatsoever, by any reason of or arising out of any act or omission of Metro, its officers, agents, and employees, or any of them relating to or arising from Metro's performances under the Agreement. In the event that any suit based upon such a Third-Party Claim is brought against Partner, Metro shall defend the same at its sole cost and expense; provided that Partner reserves the right to participate in said suit if any principle of governmental or public law is involved; and if final judgment be rendered against Partner, and its officers, agents, and employees, or any of them, or jointly against Metro and Partner and their respective officers, agents, and employees, or any of them, Metro shall satisfy the same.

9.3. INDEMNIFICATION BY SERVICES PROVIDERS. After the Effective Date, Partner will take reasonable steps to cause its Services Providers that are not units of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless Metro and its officers, employees and agents from and against any and all claims and losses arising from a tort (as now or hereafter defined in ORS 30.260) caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Partner's Services Provider or any of the officers, agents, employees or subcontractors of the Services Provider.

10. DISPUTES, REMEDIES.

10.1. DISPUTE RESOLUTION. In the event a dispute arises between the Parties regarding this Agreement, including where a Party determines that the other is not complying with the Agreement, the Parties will use the following process to attempt to resolve the dispute.

10.1.1. A Party will provide the other with written notice of the dispute. The notice will describe the dispute, or if the notice arises from non-compliance with the Agreement, describe evidence of non-compliance and the steps the Party believes are needed to restore compliance with the Agreement. Unless otherwise provided for in the Agreement, the Party receiving notice will have 30 days from the date it receives the notice to restore compliance with the Agreement. If the non-compliance issue is of such a nature that it cannot reasonably be cured within 30 days, the Party on notice of its non-compliance will have such additional time as required to restore its compliance with the applicable terms of the Agreement, as long as it is acting in a reasonable manner and in good faith.

10.1.2. If the non-compliant Party does not reasonably correct the non-compliance concern or if the dispute is not otherwise resolved between the Parties within the time allowed, the Parties will attempt to settle the issue through good faith negotiation. This may be done at any management level, including at a level higher than persons directly responsible for administration of the Agreement.

10.1.3. If the Parties are unable to resolve the issue through such negotiation, or such negotiations have not resolved the dispute or non-compliance concern within 30 days from the date a Party first issues written notice as provided in **Section 10.1.1** and the Parties have not agreed to an extension of time to negotiate, the Parties will submit the issue to the Executive Committee as provided in **Section 8.1**. The Executive Committee will attempt to resolve the dispute or non-compliance concern on terms acceptable to both Parties.

10.1.4. If the Executive Committee is unable to resolve the dispute or non-compliance concern within 30 days of their first meeting regarding the issue, and the Parties have not agreed to an extension of time for the Executive Committee to resolve the dispute, the Parties will then attempt in good faith to resolve the issue by facilitated mediation. The Parties agree to attend at least four hours of mediation before resorting to arbitration, litigation, or some other dispute resolution procedure. The Parties agree to schedule the mediation within 60 days of written notice from the Executive Committee that it is unable to resolve the dispute or non-compliance concern.

10.1.5. The Parties will attempt to use the services of a mutually agreed upon mediator, with a preference for a mediator with experience in mediating disputes between local governments. If the Parties cannot mutually agree on a mediator within 14

business days of having submitted a possible mediator candidate, or the mediation is unsuccessful, either party may proceed to arbitration or litigation.

10.1.6. Each Party is responsible for its own dispute-related costs. The Parties will each pay for half of any mutually retained mediator or arbitrator's services and costs.

10.1.7. Nothing prevents a Party from resorting to a court of competent jurisdiction in those instances where injunctive relief may be appropriate; or, if the Parties agree, seek arbitration to resolve the dispute or non-compliance concern. Any dispute submitted for arbitration will be settled in accordance with the commercial arbitration rules of the Arbitration Services of Portland, Inc., then in effect, and judgment on the award may be entered in any court having jurisdiction.

10.2. REMEDIES.

10.2.1. BREACH BY PARTNER. Subject to the dispute resolution process set forth in **Section 10.1** and the limits of the OTCA and the Oregon Constitution, if Metro reasonably believes that Partner (a) has failed to comply timely with any material obligation under this Agreement or its Local Implementation Plan, or (b) is not spending its Program Funds according to the terms of this Agreement, then Metro may exercise any remedy available to it under this Agreement or applicable law, including but not limited to injunctive relief and termination of the Agreement.

10.2.2. BREACH BY METRO. Subject to the dispute resolution process set forth in **Section 10.1** and the limits of the OTCA and the Oregon Constitution, if Partner believes that Metro (a) has failed to comply timely with any material obligations under this Agreement, the Metro SHS Work Plan, or applicable law, or (b) is not disbursing funds timely or in the amount required under this Agreement, then Partner may exercise any remedy available to it under this Agreement or applicable law, including but not limited to injunctive relief and termination of the Agreement.

10.2.3. WITHHOLDING PROGRAM FUNDS. If Metro in good faith determines that Partner has Misused, as defined below, Program Funds, and after engaging in any relevant responsive process set forth in the Agreement, then Metro may withhold from future Program Fund allocations to Partner an amount equal to the Misuse, as provided below, until Partner corrects the Misuse as set forth below.

10.2.3.1. "Misuse" means Partner: (a) used Program Funds for non-SHS purposes; (b) except as provided for in **Section 4.1**, spending Program Funds outside the Region; or (c) failed to comply with a CAP.

10.2.3.2. NOTICE AND DISPUTE RESOLUTION. Prior to withholding future Program Funds, Metro will provide Partner written notice of the alleged Misuse and immediately begin the dispute resolution process set forth in **Section 10**. If the Parties have not resolved the dispute within 90 days of Partner receiving written notice of the Misuse, Metro may withhold future Program Funds in an amount equal to the alleged Misuse. Notwithstanding the 90-day period provided herein, Metro will not withhold future Program Funds if Metro reasonably determines

the Parties are attempting, in good faith, to resolve the dispute through the dispute resolution process set forth in **Section 10**.

- 10.2.3.3. TERMINATION OF WITHHOLDING. Metro's right to withhold future Program Funds terminates upon the occurrence of one of the following:
- a. APPROPRIATE SPENDING. Partner either, as appropriate: (i) provides funding towards an eligible Partner SHS program, through non-Program Funds dollars, in an amount equal to Partner's Misuse; or (ii) spends Program Funds in a manner consistent with a CAP.
 - b. COURT ORDER. A tribunal (i.e., a court of competent jurisdiction or an arbitrator) determines that Partner's use of Program Funds was permissible under this Agreement.
- 10.2.3.4. EXAMPLES OF MISUSE AND NON-MISUSE. The following are examples of expenditures that constitute Misuse under this subsection: using Program Funds to repair roads, hire corrections or parole officers, or to pay for public improvements unrelated to the provision of SHS. The following examples do not constitute Misuse: spending Program Funds on eligible SHS programs but differently than as described in the Plan or Annual Work Plan, provided the spending does not materially deviate from the approved Local Implementation Plan or Material Plan Amendment; spending less than provided for in an applicable Annual Program Budget because of insufficient Program Funds received from Metro; reserving Program Funds over multiple Fiscal Years to pay contractual, project-based rent assistance requirements; spending Program Funds on SHS programming but through other departments or agencies, such as on behavioral health services for people experiencing homelessness, and spending on juvenile homelessness; spending Program Funds on capacity building; and spending Program Funds on debt service for loans benefitting a SHS program.
- 10.2.3.5. CORRECTIVE ACTION PLAN-BASED WITHHOLDING. Upon completion of the dispute resolution process set forth in **Section 10**, if Partner fails to comply with a CAP, then Metro may temporarily withhold an amount equal to the under-expenditure until Partner corrects the under-expenditure by spending Program Funds in accordance with its CAP.
- 10.2.3.6. PROGRAM FUNDS RE-ALLOCATION FOR BREACH. Metro may re-allocate Program Funds withheld from one County (the "Repudiating County") and disburse those Program Funds to one or more other Counties to be used within the boundaries of the Repudiating County if a majority of the Counties' delegations to the Executive Committee find that the Repudiating County has anticipatorily repudiated the Agreement. If a majority of the Counties' delegations find that an anticipatory repudiation has occurred, then the following process applies:

- a. Metro and the County or Counties receiving re-allocated Program Funds may execute an amendment to the Agreement to describe the relevant terms for and to implement the re-allocation; or
- b. Metro and the County or Counties receiving re-allocated Program Funds may implement the re-allocation with the signed, written approval of their chief elected officials on a document describing the relevant terms governing the re-allocation and use of Program Funds.

The Repudiating County may seek dispute resolution of that matter in accordance with **Section 10.1** or, at the Repudiating County's discretion, may immediately file suit with a court of competent jurisdiction (or commence arbitration, if agreed to by all parties) challenging the determination that the Repudiating County anticipatorily repudiated the Agreement.

11. GENERAL PROVISIONS.

- 11.1. COOPERATION OF GOVERNMENT UNITS. This Agreement is an intergovernmental agreement subject to Chapter 190 of the Oregon Revised Statutes. The Agreement is an authorization by a public body under ORS 190.010 for a Party to perform one or more inherent governmental responsibilities for another Party.
- 11.2. ACCESS TO, MAINTENANCE OF RECORDS. Each Party is allowed access to the books, documents and other Records of the other Party that are related to this Agreement for the purpose of examination, copying and audit, unless otherwise limited by law. The Parties will retain, maintain, and keep accessible all Records for a minimum of seven years following Agreement termination, unless a longer period of time is required under law. The Parties will maintain financial Records in accordance with generally accepted accounting principles.
- 11.3. MEDIA RELEASES, PUBLIC ACKNOWLEDGMENT. The Parties acknowledge the value in coordinating public communications about the SHS program and will make reasonable efforts to provide notice to each other prior to issuing press releases, holding press conferences, or engaging in other pre-planned public communications about the program. The Parties will use reasonable efforts to notify each other prior to releasing communications between the Parties to the public. Similarly, each Party will make reasonable efforts to publicly recognize the other and the SHS program in any publications, media presentations, or other presentations relating to or describing SHS programs and services supported by Income Taxes, including and as applicable by providing a speaking opportunity for the elected official(s) for the district in which a Party-organized event occurs.
- 11.4. NOTICE. A notice or communication under this Agreement by a Party to another Party is sufficiently delivered if sent with all applicable postage or delivery charges prepaid by: (a) personal delivery; (b) sending a confirmed email copy (either by automatic electronic confirmation or by affidavit of the sender) directed to the email address of the Party set forth below; (c) registered or certified U.S. mail, return receipt

requested; or (d) delivery service or “overnight delivery” service that provides a written confirmation of delivery, each addressed to a Party as set forth in **Exhibit 4**.

Each Party may specify a different address for subsequent notice purposes. Notice is deemed effective on the earlier of actual delivery or refusal of a Party to accept delivery, provided that notices delivered by email are not deemed effective unless the individual to whom an email is sent confirms receipt of the email.

- 11.5. SUCCESSORS; NO ASSIGNMENT, THIRD-PARTY BENEFICIARIES. This Agreement binds each Party, its successors, assigns and legal representatives. No Party may voluntarily assign or transfer its obligations to any third-party. Nothing in this Agreement provides any benefit or right to any non-party unless such third-person is individually identified by name in this Agreement and expressly described as an “intended third-party beneficiary” of this Agreement.
- 11.6. ADHERENCE TO LAW. The Parties will adhere to all applicable federal and state laws in all activities under this Agreement.
- 11.7. WAIVERS. No waiver made by a Party with respect to performance, or the manner or time of performance, of any obligation of another Party or any condition under this Agreement will be considered a waiver of any other rights of the Party making the waiver or a waiver by any other Party. No waiver by a Party of any provision of this Agreement will be of any force or effect unless in writing and no waiver may be construed to be a continuing waiver.
- 11.8. TIME OF THE ESSENCE. Time is of the essence of this Agreement.
- 11.9. CHOICE OF LAW AND FORUM. This Agreement will be construed in accordance with the laws of the state of Oregon and any action brought under this Agreement will be brought in Multnomah County, Oregon, if in state court, and in the United States District Court for the District of Oregon in Portland, if brought in federal court.
- 11.10. MODIFICATION OR AMENDMENT. This Agreement may only be modified or amended by a writing signed by each of the Parties. No modification or amendment to any provision of this Agreement may be implied from any course of performance, any acquiescence by any Party, any failure of any Party to object to another Party’s performance or failure to perform, or any failure or delay by any Party to enforce its rights.
- 11.11. HEADINGS. Any titles of the sections of this Agreement are inserted for convenience of reference only and will be disregarded in construing or interpreting its provisions.
- 11.12. COUNTERPARTS; ELECTRONIC TRANSACTION. This Agreement may be executed in counterparts, each treated as an original, and the counterparts will constitute one document. The Parties agree that they may conduct this transaction, including any amendments or extension, by electronic means including the use of electronic signatures and facsimiles.

- 11.13. SEVERABILITY. If any term or provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, that holding does not invalidate or render unenforceable any other provision of this Agreement.
- 11.14. CONSTRUCTION AND INTERPRETATION. To the extent consistent with the context, words in the singular include the plural, words in the masculine gender include the feminine gender and the neuter, and vice versa. All provisions of this Agreement have been negotiated at arm's length, and this Agreement may not be construed for or against any Party by reason of the authorship or alleged authorship of any provision of this Agreement.
- 11.15. IMPLEMENTATION. The Parties agree to take all actions and execute all documents necessary to effect the terms of this Agreement.
- 11.16. NO ATTORNEY FEES. Each Party is responsible for its own attorneys' fees and expenses to enforce any term of this Agreement in the event any arbitration, action or proceeding (including any bankruptcy proceeding) is instituted.
- 11.17. RELATIONSHIP OF PARTIES. Nothing in this Agreement nor any acts of the Parties under this Agreement may be deemed or construed by the Parties, or by any third person, to create the relationship of principal and agent, or of partnership, or of joint venture or any association between any County and Metro.
- 11.18. FORCE MAJEURE. Neither Party shall be in default of the Agreement by reason of any failure or delay in the performance of its obligations where such failure or delay is caused by circumstances or causes beyond a Party's reasonable control including, but not limited to, civil disturbances, riot, rebellion, invasion, epidemic, hostilities, war, terrorist attack, embargo, natural disaster, acts of God, flood, fire, sabotage, fluctuations or non-availability of electrical power, heat, light, air conditioning or equipment, loss and destruction of property.

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SUPPORTIVE HOUSING SERVICES INTERGOVERNMENTAL AGREEMENT
Signatures

Metro Regional Government

Approved as to form

Marissa Madrigal, Chief Operating Officer
Date: _____

Carrie MacLaren, Metro Attorney
Date: _____

Clackamas County

Approved as to form

Tootie Smith, Chair
Date: _____

Stephen Madkour, County Attorney
Date: _____

**EXHIBIT 1
Ballot Measure 26-210**

The People of Metro ordain as follows:

SUPPORTIVE HOUSING SERVICES OVERVIEW

SECTION 1. Title

The provisions contained herein are to administer the Metro Supportive Housing Services Revenue, referred to as the “Supportive Housing Services Revenue.”

SECTION 2. Finding of Metropolitan Concern

Homeless and housing services is a matter of metropolitan concern over which Metro may exercise jurisdiction.

SECTION 3. Purpose

The Supportive Housing Services Revenue will fund services for people experiencing homelessness and housing instability.

PROGRAM IMPLEMENTATION

SECTION 4. Services and Priorities

Supportive Housing Services Revenue will fund Supportive Housing Services, including: street outreach services; transition and placement services; in-reach, basic survival support, and mental health services; interventions and addiction services (crisis and recovery); physical health services; interventions for people with physical impairments and disabilities; short and long-term rent assistance; eviction prevention; financial literacy, employment, job training and retention education; peer support services; workplace supports; benefits, navigation and attainment (veteran benefits, SSI, SSDI, other benefits); landlord tenant education and legal services; fair housing advocacy; shelter services; bridge/transitional housing placement; discharge interventions; permanent supportive housing services; affordable housing and rental assistance and other supportive services. Supportive Housing Services Revenue and Supportive Housing Services will first address the unmet needs of people who are experiencing or at risk of experiencing long-term or frequent episodes of homelessness. Supportive Housing Services Revenue and Supportive Housing Services will be prioritized in a manner that provides equitable access to people of color and other historically marginalized communities.

SECTION 5. Oversight Committee

1. **Committee Established.** A 20-member regional oversight committee (hereafter, “Supportive Housing Services Regional Oversight Committee” or “Regional Oversight Committee”) will oversee the Supportive Housing Services Program.
2. **Purpose and Authority.** The purpose and authority of the Supportive Housing Services Regional Oversight Committee is to:
 - a. Evaluate local implementation plans, recommend changes as necessary to achieve program goals and guiding principles, and make recommendations to Metro Council for approval;
 - b. Accept and review annual reports for consistency with approved local implementation plans;
 - c. Monitor financial aspects of program administration, including review of program expenditures; and
 - d. Provide annual reports and presentations to Metro Council and Clackamas, Multnomah, and Washington County Boards of Commissioners assessing performance, challenges, and outcomes.
3. **Membership.** The Supportive Housing Services Community Oversight Committee is composed of 20 members, as follows:
 - a. Five members from Clackamas County.
 - b. Five members from Multnomah County.
 - c. Five members from Washington County.
 - d. One representative from each of the Clackamas, Washington, and Multnomah County Board of Commissioners and the Portland City Council to serve as ex officio members.
 - e. One member of the Metro Council to serve as a non-voting delegate.
4. **Membership Representation.** The membership must be composed of persons who represent the following experiences, organizations and qualities:
 - a. Has experience overseeing, providing, or delivering Supportive Housing Services;
 - b. Has lived experience of homelessness or severe housing instability;
 - c. Has experience in the development and implementation of supportive housing and other services;
 - d. Has experience in the delivery of culturally-specific services;
 - e. Represents the private-for-profit sector;
 - f. Represents the philanthropic sector;
 - g. Represents communities of color, Indigenous communities, people with low incomes, immigrants and refugees, the LGBTQ+ community, people with disabilities, and other underserved and/or marginalized communities; and

h. Represents a continuum of care organization.

A person may represent more than one of the subsections above. The membership must have broad representation and geographical diversity.

5. Terms. Nine of the initial Committee members will serve a one year term, and the Council may reappoint those nine members for up to two additional two-year terms.
6. Oversight Committee Review. Metro may conduct a review of the regional oversight committee's role and effectiveness as appropriate.

SECTION 6. Local Implementation Plans

1. Local implementation plans are intended to document the proposed use of funds and how these uses align with the purposes of the Supportive Housing Services Measure. A plan must be submitted to the Oversight Committee for review and approval before the Metro Council approves it.
2. Local implementation plans must be developed using locally convened and comprehensive engagement processes that prioritize the voices of people with lived experience and from communities of color.
3. The locally convened body that develops the local implementation plan must include a broad array of stakeholders to develop the plan. Each county may convene a new committee or use a standing committee if the standing committee can demonstrate a track record of achieving equitable outcomes in service provisions to regional oversight committee.
4. Members of the convened body that develops the local implementation plan must include:
 - a. People with lived experience of homelessness and/or extreme poverty;
 - b. People from communities of color and other marginalized communities;
 - c. Culturally responsive and culturally specific service providers;
 - d. Elected officials, or their representatives, from the county and cities participating in the regional affordable housing bond;
 - e. Representatives from the business, faith, and philanthropic sectors;
 - f. Representatives of the county/city agencies responsible for implementing homelessness and housing services, and that routinely engage with the unsheltered population;
 - g. Representatives from health and behavioral health who have expertise serving those with health conditions, mental health and/or substance use disorder from culturally responsive and culturally specific service providers; and
 - h. Representation ensuring geographical diversity.

5. Local implementation plans must include the following:
 - a. A strategy for equitable geographic distribution of services within the respective jurisdictional boundary and the Metro district boundary.
 - b. A description of how the key objectives of Metro's Strategic Plan to Advance Racial Equity, Diversity, and Inclusion have been incorporated. This should include a thorough racial equity analysis and strategy that includes: (1) an analysis of the racial disparities among people experiencing homelessness and the priority service population; (2) disparities in access and outcomes in current services for people experiencing homelessness and the priority service population; (3) clearly defined service strategies and resource allocations intended to remedy existing disparities and ensure equitable access to funds; and (4) an articulation of how perspectives of communities of color and culturally specific groups were considered and incorporated.
 - c. A review of current system investments or capacity serving priority populations, an analysis of the nature and extent of gaps in services to meet the needs of the priority population, broken down by service type, household types, and demographic groups.
 - d. A description of the planned investments that includes: (1) the types of services, and how they remedy the service gap analysis; (2) the scale of the investments proposed; (3) the outcomes anticipated; and (4) the service delivery models that will be used in each area of service.
 - e. A plan for coordinating access to services with partnering jurisdictions and service providers across the region.
 - f. A plan for tracking and reporting outcomes annually and as defined through regional coordination.
 - g. A plan to evaluate funded services and programs.
 - h. A description of how funds will be allocated to public and non-profit service providers, including transparent procurement processes, and a description of the workforce equity procurement standards.
 - i. A commitment that funding will be allocated as follows: (a) 75 percent for people who have extremely low incomes and one or more disabling conditions, who are experiencing long-term or frequent episodes of literal homelessness or are at imminent risk of experiencing homelessness; and (b) 25 percent for people who are experiencing homelessness or face/have substantial risk of homelessness.
 - j. A description of how the plan will remove barriers to full participation for organizations and communities by providing stipends, scheduling events at accessible times and locations, and other supportive engagement tactics.
 - k. A description of how the plan will prioritize funding to providers who demonstrate a commitment and delivery to under-served and over-represented populations, with culturally specific and/or linguistically specific services, as well as those programs that have the lowest barriers to entry and actively reach out to communities often screened out of other programs.

6. Each county must provide a report annually on its progress under the local implementation plan to the regional services oversight committee that will discuss progress towards outcomes in each of the service areas identified in the local implementation plan and a separate analysis of progress toward the implementation of the county's racial equity strategy. Reports will also include municipal investments from cities within Metro who have either increased or decreased contributions to homeless services for the priority population. Existing reports may be used.
7. Metro recognizes that each county may approach program implementation differently depending on the unique needs of its residents and communities. Therefore, it is the policy of the Metro Council that there be sufficient flexibility in implementation to best serve the needs of residents, communities, and those receiving Supportive Housing Services from program funding.

SECTION 7. Allocation of Revenue

1. After Metro has first retained funds necessary to pay for collection of the taxes, Metro may retain up to five percent of the remaining collected funds for administration and oversight as more fully described in Section 14(1).
2. After the funds have been allocated for collection, administration and oversight as set forth in subsection (1), Metro will then allocate the remaining Supportive Housing Services Revenue within each county using the following percentages: 21 1/3 percent to Clackamas County, 45 1/3 percent to Multnomah County and 33 1/3 percent to Washington County.
3. The percentages set forth in subsection (2) apply to revenue for the first two tax years. Thereafter, the percentages may be adjusted to reflect the portion of Supportive Housing Services Revenue actually collected in each county.

SECTION 8. Equity and Community Engagement

1. Metro has adopted a Strategic Plan to Advance Racial Equity, Diversity, and Inclusion which includes specific goals and objectives to ensure that all people who live, work and recreate in the greater Portland region have the opportunity to share in and help define a thriving, livable and prosperous region. A key objective throughout the strategy is a commitment to advance equity related to stable and affordable housing.
2. In implementing the Supporting Housing Services Measure, Metro will rely on the goals and objectives within the Strategic Plan to:
 - Convene regional partners to advance racial equity outcomes in supportive housing services.

- Meaningfully engage with communities of color, Indigenous communities, people with low incomes and other historically marginalized communities in establishing outcomes and implementing the Supportive Housing Services Program.
 - Produce and provide research and information to support regional jurisdictions in advancing equity efforts.
 - Increase accountability by ensuring involvement of communities of color in establishing goals, outcomes, and implementation and evaluation efforts.
 - Increase participation of communities of color in decision-making.
 - Use equity criteria in resource allocation for the Supportive Housing Services Program.
3. Metro will actively work to remove barriers for organizations and communities to ensure full participation by providing stipends, scheduling events at accessible times and locations, and other supportive engagement tactics.

SECTION 9. Prohibition on Displacement of Funds Currently Provided

1. The purpose of the Supportive Housing Services tax is to provide revenue for Supportive Housing Services in addition to revenues provided for those services by the local governments within Metro.
2. In the event that any local government within Metro reduces the funds provided for Supportive Housing Services by that local government, Supportive Housing Services Revenue may not be provided to that local government or be used to provide Supportive Housing Services within the boundaries of that local government. This section is intended to prevent any local government from using Supportive Housing Services Revenue to replace funds currently provided by that local government.
3. A local government may seek a temporary waiver from this section for good cause, including but not limited to a broad economic downturn.

TAX COLLECTION REQUIREMENTS

SECTION 10. Voter Approval Ordinance No. 20-1442; Rates; Exemptions

Metro Council Ordinance No. 20-1442 is approved as follows.

1. Personal Income Tax; Rate. Beginning tax year 2021, a tax of one percent is imposed on the entire taxable income over \$200,000 if filing jointly and \$125,000 if filing singly on every resident of the district subject to tax under ORS chapter 316 and upon the taxable income over \$200,000 if filing jointly and \$125,000 if filing singly of every nonresident that is derived from sources within the district which income is subject to tax under ORS chapter 316.

2. Business Profits Tax; Rate. Beginning tax year 2021, a tax of one percent is imposed on the net income of each person doing business within Metro.
3. Exception for Small Businesses. Persons whose gross receipts from all business income, both within and without Metro, amount to less than or equal to \$5 million are exempt from payment of the business profits tax.
4. Exemptions Required by Law. Persons whom Metro is prohibited from taxing under the Constitution or laws of the United States or the Constitution or laws of the State of Oregon, or the Metro Charter are exempt from payment of the taxes set forth in this section.

SECTION 11. Tax Must be Re-Authorized or Discontinued After Ten Years

1. Metro may assess the taxes imposed by section 10 through the tax year ending December 31, 2030.
2. After December 31, 2030, the tax will expire unless reauthorized by the voters on or before that date. After the tax expires, Metro or the entity authorized to collect the tax may continue to take all reasonable and necessary actions to ensure that taxes still owing are paid in full.

SECTION 12. Collection of Funds

1. It is Metro's intent to enter into an intergovernmental agreement with an Oregon taxing agency to collect Supportive Housing Services Revenues.
2. If Metro is unable to enter into an intergovernmental agreement for the collection of Supportive Housing Services Revenues after good faith efforts to do so, Metro may collect the funds.

SECTION 13. Use of Revenues

Unless expressly stated otherwise in this measure, Supportive Housing Services Revenues may only be used for the purposes set forth in Sections 3, 4, 12, and 14. Metro may establish a separate fund or funds for the purpose of receiving and distributing Supportive Housing Services Revenues.

SECTION 14. Administrative Cost Recovery

1. After Metro's tax collection costs are paid, Metro may retain up to five percent of the remaining funds to pay for the costs to disburse the funds and administer and oversee the program. This includes convening and supporting the regional oversight committee;

establishing a regional homelessness data collection and reporting program; and supporting tri-county regional collaboration.

2. At least annually the Regional Oversight Committee will consider whether Metro's collection and administrative costs and each county's administrative costs could or should be reduced or increased. The Regional Oversight Committee will recommend to the Metro Council at least once a year as to how Metro can best limit its collection and administrative costs.
3. In establishing a new Supportive Housing Services Revenue fund, it is the policy of the Metro Council to ensure public transparency and accountability regarding the funding, creation and implementation of this program. It is further the policy of the Metro Council to maintain low administrative costs to ensure that the maximum amount possible of the tax revenue is used to achieve the purposes of Supportive Housing Services.

SECTION 15. Use of Funds in Metro Jurisdictional Boundary Only

Although some portion of each of the three recipient counties (Multnomah, Washington and Clackamas) are outside of the Metro jurisdictional boundary, Supportive Housing Services Revenues collected may be spent only for Supportive Housing Services provided within the Metro jurisdictional boundary.

SECTION 16. Accountability of Funds; Audits

1. Each county or local government receiving funds must make an annual report to the Metro Council and the oversight committee on how funds from the taxes have been spent and how those expenditures have affected established homelessness metrics.
2. Every year a public accounting firm must conduct a financial audit of the revenue generated by the taxes and the distribution of that revenue. Metro will make public the audit and any report to the Metro Council regarding the results of the audit. Metro may use the revenue generated by the taxes to pay for the costs of the audit required under this subsection.
3. The revenue and expenditures from the taxes are subject to performance audits conducted by the Office of the Metro Auditor.

SECTION 17. Ownership of Taxpayer Information

Metro is the sole owner of all taxpayer information under the authority of this measure. The Chief Financial Officer has the right to access all taxpayer information for purposes of administration.

SECTION 18. Confidentiality

1. Except as provided in this measure or otherwise required by law, it is unlawful for the Chief Financial Officer, or any elected official, employee, or agent of Metro, or for any person who has acquired information pursuant to this measure to divulge, release, or make known in any manner any financial information or social security numbers submitted or disclosed to Metro under the provisions of this measure and any applicable administrative rules.
2. Nothing in this section prohibits the disclosure of general statistics in a form that would prevent the identification of financial information or social security numbers regarding an individual taxpayer.

SECTION 19. Examination of Books, Records or Persons

The Chief Operating Officer or its designee may examine any books, papers, records, or memoranda, including state and federal income tax returns, to ascertain the correctness of any tax return or to make an estimate of any tax. The Chief Operating Officer or its designee has the authority, after notice, to require verification of taxpayer information in order to carry out the provisions of this measure.

SECTION 20. Conformity to State Laws

1. For the personal income tax, it is Metro's policy to follow the state of Oregon laws and regulations adopted by the Department of Revenue relating to personal income tax. The Supportive Housing Services Revenue will be construed in conformity with laws and regulations imposing taxes on or measured by net income.
2. For the business profits tax, it is Metro's policy to utilize, as guidance, the Multnomah County Business Income Tax rules and procedures.
3. If a question arises regarding the tax on which this measure is silent, the Chief Operating Officer may look to state law for guidance in resolving the question, provided that the determination under state law is not in conflict with any provision of this measure or the state law is otherwise inapplicable.

SECTION 21. Tax as a Debt; Collection Authority

1. The tax imposed by this measure, as well as any penalties and interest, becomes a personal debt due to Metro at the time such liability for the tax is incurred.
2. Metro is authorized to collect any deficient taxes, interest and penalties owed. This includes initiating and defending any civil actions and other legal proceedings.

FURTHER IMPLEMENTATION

SECTION 22. Administrative Rules

The Chief Operating Officer or designee may adopt administrative rules, forms, guides and policies to further implement the provisions of this measure. Any rule adopted by the Chief Operating Officer has the same force and effect as any Metro Code provision. In adopting administrative rules, the Chief Operating Officer or designee may seek guidance from the Oregon Department of Revenue's rules and procedures and Multnomah County's business income tax's rules and procedures.

SECTION 23. Tri-County Planning

1. Metro will annually allocate a portion of resources from its administrative costs to provide the staffing and logistical support to convene and maintain a tri-county homeless services planning body. This body will develop and implement a tri-county initiative that will be responsible for identifying regional goals, strategies, and outcome metrics related to addressing homelessness in the region.
2. The counties must present to the regional services oversight committee for its approval a proposal to implement the tri-county planning requirement.
3. Each county must annually contribute no less than five percent of each of the counties' share of the Supportive Housing Services Revenue to a regional strategy implementation fund.
4. The proposed governance structure of the tri-county planning body must be inclusive of people representing at least the perspectives required in Section 6(4).
5. Within one year of the adoption of the tri-county initiative plan, and as needed thereafter, each county will bring forward amendments to its Local Implementation Plan that incorporate relevant regional goals, strategies, and outcomes measures.

DEFINITIONS

SECTION 24. Definitions

For the purpose of this measure, the terms used are defined as provided in this section unless the context requires otherwise.

Nonresident means an individual who is not a resident within the Metro jurisdictional boundary.

Person means, but is not limited to an individual, a natural person, proprietorship, partnership, limited partnership, family limited partnerships, joint venture (including tenants-in-common arrangements), association, cooperative, trust, estate, corporation, personal holding company, limited liability company, limited liability partnership or any other form of organization for doing business.

Resident means a taxpayer domiciled within the Metro jurisdictional boundary for any portion of the taxable year.

Supportive Housing Services means homeless prevention, support services and rent assistance that stabilize people experiencing homelessness and housing instability, including those specific services described in Section 4.

Supportive Housing Services Revenue means all funds received from the taxes imposed by Section 10.

Tax Year means the taxable year of a person for federal or state income tax purposes.

Taxpayer means any natural person, or married couple or head of household filing a joint return, whose income in whole or in part is subject to the tax imposed by this measure.

SECTION 25. Severability

If a court of competent jurisdiction finds any part, section or provision of this measure to be unconstitutional, illegal or invalid, that finding affects only that part, section or provision of the measure and the remaining parts, sections or provisions remain in full force and effect.

EXHIBIT 2
Local Implementation Plan

EXHIBIT 3
Metro SHS Work Plan

EXHIBIT 4
Contact Information for Notices

If to Metro:

Metro
Office of the Council President
600 N.E. Grand Avenue.
Portland, Oregon 97232
Email: lynn.peterson@oregonmetro.gov
Phone No.: 503-797-1700

and:

Metro
600 N.E. Grand Avenue.
Portland, Oregon 97232
Attn: Chief Operating Officer
Email: marissa.madrigan@oregonmetro.gov
Phone No.: 503-797-1700

With copies to:

Office of Metro Attorney
Metro
600 N.E. Grand Avenue
Portland, Oregon 97232
Attn: Carrie MacLaren
Email: Carrie.MacLaren@oregonmetro.gov
Phone No.: 503-797-1511

If to Clackamas County:

Clackamas County
Office of the County Chair
2051 Kaen Rd.
Oregon City, Oregon 97045
Email: bcc@clackamas.us
Phone No.: 503-655-8581

and:

Clackamas County
Finance Department
2051 Kaen Rd.
Oregon City, Oregon 97045
Attn: Finance Director
Email: EComfort@clackamas.us
Phone No.: 503-936-5345

With copies to:

County Attorney
2051 Kaen Rd.
Oregon City, Oregon 97045
Attn: Stephen Madkour
Email: smadkour@clackamas.us
Phone No.: 503-742-4623

If to Multnomah County:

Multnomah County
Office of the County Chair
501 N.E. Hawthorne Blvd., Suite 600
Portland, Oregon 97214
Email: mult.chair@multco.us
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and:

Multnomah County
Finance and Risk Management Division
501 N.E. Hawthorne Blvd.
Portland, Oregon 97214
Attn: Chief Financial Officer
Email: eric.j.arellano@multco.us
Phone No.: 503-988-6229

With copies to:

County Attorney
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Attn: Jenny Madkour
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If to Washington County:

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Office of the County Chair
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Hillsboro, Oregon 97124
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and:

Clackamas County
Finance and Risk Management Division
155 N First Avenue, Suite 300
Hillsboro, Oregon 97124
Attn: Chief Financial Officer
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Phone No.: 503-846-8004

With copies to:

County Attorney
155 N First Avenue, Suite 300
Hillsboro, Oregon 97124
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**SUPPORTIVE HOUSING SERVICES
INTERGOVERNMENTAL AGREEMENT**

This SUPPORTIVE HOUSING SERVICES INTERGOVERNMENTAL AGREEMENT ("Agreement") is made by and among Washington County, a political subdivision of the state of Oregon ("Partner"), and Metro Regional Government, a municipal corporation of the state of Oregon ("Metro"), each a "Party" and collectively as "Parties". Capitalized terms used in the Agreement are defined in **Section 1**.

RECITALS

- A. On February 25, 2020, the Metro Council adopted Ordinance No. 20-1442, which imposed business and personal 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;
- B. Also at the Metro Council meeting on February 25, 2020, the Metro Council adopted Resolution 20-5083, which referred the business and personal income taxes in 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, and it was placed on the May 19, 2020, primary election ballot;
- C. On May 19, 2020, the Metro area voters approved the Measure, thereby approving the business and personal income taxes in Ordinance No. 20-1442;
- D. The ballot title to the Measure "direct[s] regional funding to local services agencies, require[s] community engagement to develop localized implementation plans[, and] ... [a]llocate[s] funds to counties by estimated revenue collected [from the Income Taxes] within each county ...";
- E. On December 17, 2020, Metro codified the Income Taxes in new Metro Code Chapters 7.05, 7.06, and 7.07, the programmatic elements of the Measure in Metro Code Chapter 11.01, and the Regional Oversight Committee elements in the new Metro Code Section 2.19.280; provided, however, that nothing herein will be construed as an admission that the Counties are subject to Metro Code;
- F. The Measure at Section 6 provides that each County in the Region will work with Services Providers and community partners to develop and implement programs that respond to the unique needs in their communities, as outlined in their Local Implementation Plan, and that Counties will invest SHS Revenue to achieve program goals and demonstrate outcomes (also as defined by its Local Implementation Plan), and to achieve goals and metrics for the Region once they are established by the TCPB;
- G. On May 27, 2021, the Metro Council approved Partner's Local Implementation Plan, which was enacted in accordance with the requirements of the Measure;

- H. The Income Taxes became effective on January 1, 2021. Metro began receiving initial tax revenue in Spring of 2021;
- I. The Measure contemplates that Metro will receive SHS Revenue and then disburse it to the Counties throughout the tax year, not including the amounts reasonably needed by Metro for the cost of tax collection and administration;
- J. The Parties both interpret the reference to “funds provided for Supportive Housing Services by [a] local government” found in the Measure at Section 9 to refer to “unrestricted” funds, such as revenue collected by a County from local option taxes and budgeted by that County for SHS, and to not refer to “restricted” funds, such as funds provided under federal or state grant programs, borrowed funds, or funds received from one or more third-parties under contract;
- K. Before the Parties executed this Agreement, Metro and the Counties executed a Revenue Sharing Agreement, and four extensions to that agreement, under which Metro began allocating funds from the Income Taxes to the Counties to pay for Supportive Housing Services consistent with each of the County’s Metro-approved Local Implementation Plan to allow them more time to negotiate this Agreement;
- L. The Revenue Sharing Agreement will be terminated on the earlier of this Agreement’s Effective Date or January 31, 2022;
- M. As of the Effective Date, Metro is party to a validation action in the Oregon Court of Appeals (Case No. A176666), which was appealed from a ruling in Multnomah County Circuit Court (Case No. 20CV46617) (the “Validation Action”), in which Metro prevailed. In this Validation Action, certain respondents have challenged Metro’s home rule authority to administer the Income Taxes in a particular manner, primarily how income is sourced. If the respondents are ultimately successful, a court may require Metro to administer the Income Taxes in a different manner, which could affect the individuals and businesses required to pay the taxes and the amounts received by Metro from the Income Taxes. Although any such ruling should not affect the obligations of Partner or the validity of the SHS taxes, the Parties understand that there may be some disbursement disruptions if Metro is required to change the way it administers the Income Taxes, which could include refunds of previously paid Income Taxes. The Parties will work collaboratively to mitigate any disruption; and
- N. As more specifically set forth below, the Agreement sets forth the Parties’ understandings and agreements regarding the use by the Counties of the Income Taxes to pay for supportive housing services consistent with Partner’s Local Implementation Plan.

NOW, THEREFORE, the Parties agree as follows:

AGREEMENT

1. DEFINITIONS.

- 1.1. “Administrative Costs” means those costs for goods or services that benefit Partner’s delivery of SHS as a whole and cannot be attributed specifically to a particular program, as further described in **Section 3.4.2**.
- 1.2. “Administrative Expenses” means Metro’s costs to administer and oversee the SHS program, as more specifically described in **Section 3.4.1**.
- 1.3. “Agreement” means this Supportive Housing Services Intergovernmental Agreement.
- 1.4. “Annual Program Report” means the annual report prepared and presented by Partner as set forth in **Section 7.1.1**.
- 1.5. “Annual Program Budget” means the annually-prepared budget detailing Partner’s Budgeted Program Funds for a designated Fiscal Year, as set forth in **Section 5.5.2**.
- 1.6. “Annual Work Plan” means the annually-prepared plan detailing Partner’s plans for SHS programming in a designated Fiscal Year, as set forth in **Section 5.3**.
- 1.7. “Budgeted Program Funds” means Program Funds anticipated to be received by Partner in a Fiscal Year, as forecast by the Metro CFO in consultation with FRT members, off which Partner’s Annual Program Budget is based. These may include funds budgeted for Partner’s Regional Strategy Implementation Fund, a contingency reserve described in **Section 5.5.5**, and its Administrative Costs, in addition to funds budgeted for programmatic purposes.
- 1.8. “CFO” means a Party’s Chief Financial Officer.
- 1.9. “Corrective Action Plan” or “CAP” means the process and document developed by the Parties to achieve desired SHS program outcomes after it is determined that Partner is not meeting its programming or financial obligations, as set forth in **Section 6.3.5**.
- 1.10. “Counties” means, collectively, the state of Oregon municipal subdivisions of Clackamas, Multnomah, and Washington counties.
- 1.11. “County” means any one of the state of Oregon municipal subdivisions of Clackamas, Multnomah, and Washington counties.
- 1.12. “Effective Date” means the date the Agreement is executed by the Parties.
- 1.13. “Executive Committee” means the body comprised of representatives from the Counties and Metro and tasked with addressing ongoing and specific SHS program implementation improvement needs, as further provided in **Section 8.1**.
- 1.14. “Financial Review Team” or “FRT” means the CFOs for the Counties and Metro, as more specifically described in **Section 6.2**.
- 1.15. “Fiscal Year” or “FY” means the twelve-month period beginning July 1 and continuing through June 30.

- 1.16. “Income Taxes” mean the personal and business income taxes levied by Metro under Metro Code Chapters 7.06 and 7.07, which were approved by the voters in the Measure.
- 1.17. “Local Implementation Plan” or “Plan” means the Partner document that establishes the proposed use of Program Funds and how these uses align with the purposes of the SHS program and Measure, approved by Metro Council and attached as **Exhibit 2**.
- 1.18. “Material Plan Amendment” means a revision to a Metro Council-approved Local Implementation Plan that changes its guiding values, or significantly changes its goals, practices, or investment priorities.
- 1.19. “Measure” is Ballot Measure 26-210, which was approved by voters on May 19, 2020. A copy of the Measure is attached to the Agreement as **Exhibit 1**.
- 1.20. “Metro SHS Work Plan” means Metro’s SHS Work Plan adopted by the Metro Council by Resolution 20-5148 on December 17, 2020, and as amended from time to time. A copy of the Metro SHS Work Plan is attached to the Agreement as **Exhibit 3**.
- 1.21. “Program Funds” means funds available to a Local Implementation Partner, which generally consists of the SHS Revenue minus Metro’s Administrative Expenses.
- 1.22. “Quarterly Progress Report” means the report prepared and presented by Partner as set forth in **Section 7.1.2**.
- 1.23. “Records” means information prepared, owned, used, or retained by a Party, and pertaining to their respective operations and business related to the Agreement that is inscribed on a tangible medium commonly a document, or that is stored in an electronic or other medium and is retrievable in perceivable form.
- 1.24. “Region” means the territory within the Metro jurisdictional boundary as it exists on the Effective Date and any territory later annexed or subjected to Metro governance under state law.
- 1.25. “Regional Strategy Implementation Fund” means a fund created and held by each County for investment in regional goals, strategies, and outcomes identified by the TCPB and as described in **Section 8.3.3**.
- 1.26. “Regional Oversight Committee” or “ROC” means the committee that provides programmatic guidance, monitors programmatic expenditures and evaluates outcomes of the SHS program.
- 1.26.1. “ROC Charter” means the document, initially attached to the Metro SHS Work Plan as Addendum B, as may be subsequently amended.
- 1.27. “Services Providers” are local housing authorities, cities, and the Counties, to the extent that they provide SHS, and those third-party organizations that Partner contracts with to provide SHS.
- 1.28. “SHS Revenue” means all funds received from the taxes imposed by Metro Code Chapters 7.06 and 7.07 (including delinquent interest and penalties) collected in a given tax year.

- 1.29. “Stabilization Reserve” means a fund created under **Section 5.5.3** to provide funding for Budgeted Program Funds in future years if actual Program Funds fall below budgeted estimates.
- 1.30. “Supportive Housing Services” or “SHS” means homeless prevention, support services and rent assistance that stabilize people experiencing homelessness and housing instability, as further described in the Metro SHS Work Plan and the Measure at Section 4.
- 1.31. “Tri-County Planning Body” or “TCPB” means a body of stakeholders and technical experts convened to develop and implement the Tri-County Plan that will be responsible for identifying regional goals, strategies, and outcome metrics related to addressing homelessness in the Region.
- 1.31.1. “TCPB Charter” means the document agreed to between Metro and the Counties that sets forth the Parties’ performances, rights, and obligations, with respect to the TCPB; the functions of the TCPB; and the manner and practices that describe how the TCPB will operate and be governed.
- 1.32. “Tri-County Plan” is the regional plan prepared by the TCPB that will identify regional goals, strategies, and outcome metrics related to addressing homelessness in the Region.
2. EFFECTIVE DATE, TERM, EXTENSION, TERMINATION. The Agreement is effective as of the Effective Date and continues through June 30, 2031 (“Term”). The Parties may by mutual agreement extend the term of this Agreement beyond June 30, 2031.
- 2.1. TERMINATION. The Parties may jointly terminate this Agreement if they determine that such action is in the public interest. Termination under this provision is effective only upon the mutual, written termination agreement signed by both the Parties. Subject to any negotiated and agreed upon wind down provisions, including those in **Section 2.2**, this Agreement is automatically terminated within 90 days of any of the following:
- 2.1.1. The effective date of any repeal of the Measure by Metro voters;
- 2.1.2. The effective date of any amendment to the Measure by Metro voters, if the amendment invalidates or is otherwise in conflict with a material term of the Agreement and where the conflict effectively invalidates the Parties’ agreement; or
- 2.1.3. A final ruling by a court of last resort that the imposition or collection of the Income Taxes is invalid. This subsection does not apply to any lower court ruling or any ruling that does not invalidate the entire SHS program, including the Income Taxes.
- 2.1.4. If this Agreement is terminated, the Parties will collaboratively develop a plan for an orderly wind-down of the SHS program as set forth in **Section 2.2**. Unless otherwise agreed between the Parties, Partner must deliver to Metro within 60 days

of the termination date all unobligated Program Funds, required reports, and financial data.

The obligations set forth in **Section 9**, and the right in **Section 5.5.4**, survive the expiration or earlier termination of this Agreement, as does Partner's ability to spend down Program Funds where: (a) Partner committed to spend the funds under a contract signed prior to termination; (b) the contract's SHS-related performances extend beyond Agreement termination; and (c) Partner has budgeted to meet the payment requirement(s) with SHS funds.

- 2.2. **WIND-DOWN**. The Parties expressly acknowledge and agree that even after a termination or expiration of the Term of the Agreement, Metro may collect Income Taxes and allocate Program Funds to Partner. As a result, the Parties agree to the following wind-down process following termination or expiration of the Term of the Agreement:
 - 2.2.1. **PROCESS**. The Parties will collaboratively develop a plan for an orderly wind-down of the SHS program with the goal of mitigating the impact that Agreement termination could have on the individuals served by the SHS program and on the Services Providers reliant on Program Funds. Each Party shall bear its respective costs associated with wind-down planning and each will work cooperatively with the other Party in the coordination of efforts. The planning will also identify and address any ongoing program reserve needs (such as for contractual, project-based rent assistance requirements), return of unobligated funds, personnel, capital equipment, workload and any other issues related to winding-down the SHS program.
 - 2.2.2. **REASONABLE EFFORTS TO AVOID PROGRAM DISRUPTION**. If the Agreement terminates, regardless of the reason, the Parties will make reasonable efforts to prevent undue harm to the Regional homeless services systems, structures, and to those receiving SHS at the time of the termination. The Parties will make reasonable efforts to ensure that such Partner obligations are met in the event the Agreement is terminated.
 - 2.3. **SUSPENSION**. In the event Metro receives notice of an actual or threatened lawsuit challenging the validity of the Income Taxes, the Parties will work in good faith to minimize the impacts of that lawsuit on current SHS programs. In the event a court of competent jurisdiction issues a judgment that the Income Taxes are invalid, Metro may suspend disbursements of Program Funds to the minimum amount necessary to comply with the applicable court order and, to the maximum extent practicable, avoid SHS program disruption as set forth in **Section 2.2.2**.
3. **INCOME TAX COLLECTIONS, ALLOCATIONS, ADMINISTRATION**.
 - 3.1. **LEVY, COLLECT INCOME TAXES**. Except as otherwise provided in **Section 2.2**, for so long as there are uncollected Income Taxes, Metro will collect, or contract with a third-

party to collect, the Income Taxes unless Metro determines that collection is not financially prudent.

- 3.2. PROGRAM FUNDS DISBURSEMENTS. After the Effective Date Metro will disburse Program Funds to Partner on a monthly basis. Partner recognizes that Metro cannot guarantee any specific disbursement amount given the uncertainties regarding the amount of revenue that Metro will ultimately collect in any given year from the Income Taxes. Unless adjusted according to **Section 3.3** or **Section 3.5**, Metro will allocate Program Funds to the Counties as follows: 21 1/3% to Clackamas County, 45 1/3% to Multnomah County, and 33 1/3% to Washington County.
- 3.3. PROGRAM FUNDS ALLOCATIONS ADJUSTMENT. After FY 2022-23, the Counties and Metro will work cooperatively to establish a process for a review of the allocation percentages in **Section 3.2**.
- 3.4. ADMINISTRATION.
 - 3.4.1. ADMINISTRATIVE EXPENSES. After Metro's Income Tax collection expenses are paid, Metro may retain up to 5% of the remaining funds to pay the expenses to disburse the funds and administer and oversee the program. This includes the expenses to convene and support the ROC and TCPB; establish a regional homeless data collection and reporting program; support tri-county regional collaboration; and fund audit expenses. The Parties also agree that Metro cannot use Administrative Expenses to deliver SHS.
 - 3.4.2. ADMINISTRATIVE COSTS. Partner may use Program Funds to pay for its Administrative Costs. Metro recommends, but does not require, that in a given Fiscal Year Administrative Costs should not exceed: for SHS, 5% of annual Program Funds allocated to Partner, consistent with guidelines for similar programs funded by the state of Oregon; and, for administering long-term rent assistance programs, 10% of annual Program Funds allocated by Partner for long-term rent assistance, consistent with guidelines for similar programs funded by the U.S. Department of Housing and Urban Development and the state of Oregon. Partner will support all amounts billed as Administrative Costs by actual costs. Administrative Costs include, but are not limited to:
 - 3.4.2.1. Senior management personnel salaries and benefits (unless they are directly involved in SHS program operations);
 - 3.4.2.2. Administrative staff travel costs;
 - 3.4.2.3. General services such as human resources, accounting, budget development, procurement, marketing, agency audit, and agency insurance;
 - 3.4.2.4. Partner-wide membership fees and dues specific to homeless systems and programs;
 - 3.4.2.5. General Partner facilities costs (including those associated with executive positions), such as rent, depreciation expenses, and operation and maintenance (as part of Partner's direct or indirect cost allocation plan);

3.4.2.6. Equipment rental/purchase, insurance, utilities, and information technology costs that are not program specific but relate to Partner administration as a whole; and

3.4.2.7. Any other costs not specifically attributed to a particular SHS program or program delivery.

3.5. RE-ALLOCATION OF PROGRAM FUNDS AFTER REPUDIATION. Notwithstanding **Section 3.2**, Metro may re-allocate Program Funds withheld from one County and disburse those Program Funds to one or more different Counties in the event that the County whose Program Funds are being re-allocated has anticipatorily repudiated the Agreement, as further described in **Section 10.2.3.6**.

4. USE OF INCOME TAXES.

4.1. PROGRAM FUNDS USE. Partner will use Program Funds to develop and implement its SHS program in accordance with this Agreement and its Plan. Although some portion of each of the Counties are outside of the Region, Partner may only spend Program Funds for SHS provided within the Region. The temporary provision of services outside the Region for a duration less than 90 days for a client who has been living in the Region is permitted after May 1, 2022, if SHS in the Region are not otherwise available to the client. Payments to individuals or businesses located outside the Region are allowed, provided the SHS are delivered within the Region. Recognizing that other unusual situations may arise where expending Program Funds outside the Region may be necessary and appropriate after May 1, 2022, Metro will establish an exception process through which the Counties may seek pre-approval for such expenditures. Partner will reasonably monitor the performances of its third-party Services Providers to ensure their performances under contracts funded, in whole or in part, with Program Funds meet the requirements of this section.

Examples of permitted payments include: rent assistance for housing located in the Region that is paid to landlord in Seattle; hiring a technical assistant that is located in Ohio, but delivering a service or product to a person or program in the Region; assisting an individual who presents as homeless in Beaverton, but who just got off a bus from New York, and needs help getting back to New York to achieve stable housing.

Examples of prohibited uses of Program Funds include: rent assistance to a person who formerly lived in Beaverton, but has moved to Seattle (even if the landlord is located in Gresham); mental health services delivered at a clinic in North Plains for a client who lives in Tualatin; assisting an individual who presents as homeless in New York to return to Beaverton.

4.2. SPENDING ON INITIAL SHS COSTS. Anticipating receipt of Program Funds, Partner incurred certain expenses and costs associated with providing SHS, building administrative and staffing capacity to provide SHS, and supporting its SHS programs. Partner may pay for these initial SHS costs through transfers of funds, loans, or other forms of financing until sufficient Program Funds are received by Partner, after which

point Partner may use Program Funds to reimburse its initial SHS costs. Metro further agrees that initial SHS costs are not considered a part of Partner's existing SHS program for purposes of the Measure's prohibition against displacement of funds set forth in **Section 5.5.1**.

- 4.3. **DEBT SERVICE COSTS**. Metro recognizes that Partner may incur internal or external debt to implement its SHS program. The costs of debt, including debt interest and issuance costs, in which Partner used the debt proceeds solely on SHS program implementation beginning January 1, 2021, or later, are an allowable use of Program Funds and an allowable SHS program cost, provided such debt costs are included in the Annual Program Budget for the Fiscal Years in which the costs are incurred.

5. **SHS PLANNING, BUDGETING**.

- 5.1. **METRO SHS WORK PLAN**. Metro will implement its SHS program in a manner that is consistent with the Metro SHS Work Plan. To avoid ambiguity, and except where a specific portion of the plan is clearly identified and referenced in the Agreement, Partner is not required to comply with any performances, rights, or obligations set forth in the Metro SHS Work Plan.

- 5.2. **LOCAL IMPLEMENTATION PLAN**. A Local Implementation Plan is required to describe the priorities and strategies that will shape Partner's use of Program Funds and how these uses align with the purposes provided for in the Measure at Section 3 and the Metro SHS Work Plan. Partner's approved Plan is attached as **Exhibit 2**. Partner agrees to use Program Funds as set forth in its Local Implementation Plan.

- 5.2.1. **MATERIAL PLAN AMENDMENT APPROVAL PROCESS**. The approval process for Material Plan Amendments is as follows:

5.2.1.1. Partner develops the Material Plan Amendment using a locally convened community engagement process, as described in the Measure at Section 6, and submits the Material Plan Amendment to its advisory body (i.e., its board of county commissioners) for review and approval;

5.2.1.2. Partner submits the County-approved Material Plan Amendment to the ROC for its review and recommendation;

5.2.1.3. The ROC either recommends to Metro approval or denial of the Material Plan Amendment; and

5.2.1.4. Metro Council then approves or denies the Material Plan Amendment. If denied, Partner must submit a new Material Plan Amendment or initiate the dispute resolution process in **Section 10.1**.

- 5.2.2. **PLAN AMENDMENTS**. If Partner seeks a Material Plan Amendment, it must follow the approval process set forth in **Section 5.2.1**. Partner may request that Metro waive the process to implement a temporary Material Plan Amendment upon a Metro finding that a delay would seriously impact Partner's ability to implement the current Plan or adequately address an ongoing service need. A waiver of the

approval process requirement for a Material Plan Amendment is effective for no more than nine months from the date Metro granted the waiver. Partner is not required to amend the goals described in its Plan for the first year of SHS programming. After that first year, changes based on insufficient Income Tax revenue will be reflected in changes to relevant Annual Work Plans.

5.2.2.1. Partner will notify the ROC and Metro of changes to its Plan that are not Material Plan Amendments by submitting a copy of the approved amended Plan. If, after consultation with the ROC, Metro determines the amendment is a Material Plan Amendment, Metro must notify Partner of its finding within 60 days of the submittal. Partner may initiate the dispute resolution process in **Section 10.1** if it disagrees with Metro's determination. If Partner does not, within 30 days of receiving Metro's notification, dispute Metro's determination that an amendment to a Plan is a Material Plan Amendment, then the amendment will not be effective unless Partner obtains approval for the amendment as set forth in **Section 5.2.1**.

5.2.2.2. The Parties acknowledge and agree that, given the nature of Local Implementation Plans, an amendment request under **Section 5.2.2** or **5.2.2.1** should be rare; and, given the very time intensive nature of approving amendments, the Parties will rely on the Annual Work Plan process to make Plan adjustments whenever feasible.

5.2.3. AMENDMENTS TO PLAN SOUGHT BY ROC, METRO. Within 60 days of the date that Partner presents its Annual Program Report to Metro Council, Metro or the ROC may, in consultation with the other, request that Partner amend its Local Implementation Plan based on one or more ROC recommendations or a significant change in circumstances impacting homelessness in the Region. The request must be in writing and otherwise comply with the notice requirements in **Section 11.4** and describe in sufficient detail the purpose for the proposed amendment.

5.2.3.1. Partner will timely respond to a request for an amendment to its Local Implementation Plan and either: (a) agree to draft an amendment to its Plan that is responsive to the request; (b) decline the request for an amendment and explain why the amendment is not needed; or (c) propose an alternative approach that Partner feels is responsive to the purpose described by the ROC or Metro in its proposal. Plan amendments under this **Section 5.2.3** must follow the process set forth in **Section 5.2.2**. If Partner declines the request for an amendment, Metro may initiate the dispute resolution process in **Section 10.1**.

5.2.3.2. The Parties acknowledge and agree that, given the nature of Local Implementation Plans, an amendment request under **Section 5.2.3** should be rare; and, given the very time intensive nature of approving amendments, the Parties will rely on the Annual Work Plan process to make Plan adjustments whenever feasible.

- 5.2.3.3. If Partner fails to timely or adequately respond to a Plan amendment request, Metro may seek dispute resolution.
- 5.2.4. AMENDMENT TO LOCAL IMPLEMENTATION PLAN REQUIRED AFTER TRI-COUNTY PLAN ADOPTED. Within one year of the adoption of the Tri-County Plan, and as needed thereafter, Partner will bring forward any necessary amendments to its Local Implementation Plan that incorporate relevant regional goals, strategies, and outcomes measures. The ROC will review the amendments and recommend approval or denial of the Plan amendments to the Metro Council. The Parties recognize and agree that, given the nature of Local Implementation Plans, amendments to the Local Implementation Plan may not be necessary, or should be rare, and that Tri-County Plan directives may more appropriately be incorporated into Partner's Annual Work Plan.
- 5.3. ANNUAL WORK PLAN. Beginning in FY 2022-23, Partner must annually submit an Annual Work Plan to Metro and the ROC for their review on or before April 1 for the subsequent Fiscal Year. Partner will prepare the Annual Work Plan using a template jointly created and approved by Metro and the Counties. In lieu of an Annual Work Plan describing implementation plans for the first Fiscal Year of the Term, Partner will provide, as part of its first Quarterly Progress Report detailed in **Section 7.1.2**, a summary of SHS implementation efforts underway and planned for the balance of that Fiscal Year. Metro will receive and review the Annual Work Plan for consistency with Partner's Local Implementation Plan, and Partner agrees to provide SHS as described in the Annual Work Plan.
- 5.4. METRO BUDGETING.
- 5.4.1. ADMINISTRATIVE EXPENSES. At least annually, Metro will prepare a written budget for its SHS program that details its use of Income Taxes and its Administrative Expenses and will present its SHS budget to the ROC. The ROC will consider whether Metro's SHS budget, its collection costs, and its Administrative Expenses could or should be reduced or increased. The ROC may recommend to the Metro Council how Metro can best limit its collection and Administrative Expenses in the following Fiscal Year.
- 5.4.1.1. SUPPORT FOR OVERSIGHT GROUPS. Metro will annually allocate a sufficient portion of resources to provide the staffing and logistical support required by the Executive Committee, FRT, ROC, and TCPB.
- 5.5. PARTNER BUDGETING.
- 5.5.1. NON-DISPLACEMENT. Partner may not Displace Current Partner-provided SHS Funds with Program Funds received by Metro under this Agreement absent Partner receiving a written waiver from Metro that good-cause exists to permit the requested Displacement. Metro will not unreasonably withhold a waiver. As part of its Annual Program Report, Partner will include a certification as to whether there was a Displacement of Current Partner-provided SHS Funds.

5.5.1.1. OTHER FUNDS. Partner has previously used other funds for the provision of SHS. Some of the funding is County general fund. However, other funds include, but are not limited to, various state or federal grants and other non-general fund sources. Partner will attempt, in good faith, to maintain such funding at the same levels set forth in Partner's FY 2018-19 budget. However, because the amount and availability of these other funds are outside of Partner's control, they do not constitute Partner's Current Partner-provided SHS Funds for purposes of Displacement. Partner will provide Metro with information on the amount of other funds Partner has allocated to SHS, as well as the change, if any, of those funds from the prior Fiscal Year in its Annual Program Budget.

5.5.1.2. TERMS. As used in **Section 5.5.1**:

- a. "Current Partner-provided SHS Funds" means Partner's general funds currently provided as of FY 2019-20 towards SHS programs within Partner's jurisdictional limits including, but not limited to, within the Region. "Current Partner-provided SHS Funds" expressly excludes all other sources of funds Partner may use to fund SHS programs as of FY 2019-20 including, but not limited to, state or federal grants. Apart from such general fund dollars already budgeted and used for SHS purposes as described in **Section 5.5.1**, this Agreement does not require Partner to expend or risk its own funds (other than the Program Funds it receives) or otherwise incur any financial liability in the performance of any of its duties, or in the exercise of its rights or powers hereunder.
- b. "Displace" or "Displacement" means to reduce Partner's overall, county-wide Current Partner-provided SHS Funds. Partner's reduction of funds provided towards a particular SHS program, type of SHS, or a reduction of SHS funds in a particular geographic area including, but not limited to, within the Region, is not a Displacement, provided Partner's overall Current Partner-provided SHS Funds are not reduced. The Parties agree that Partner may reduce current SHS programs currently being provided within the Region, but that reduction is not a "Displacement" and does not violate **Section 5.5.1** of this Agreement or Section 9 of the Measure, provided Partner's overall Current Partner-provided SHS Funds are not reduced.

5.5.2. ANNUAL PROGRAM BUDGET. As part of its Annual Program Report, Partner must submit to Metro for review an Annual Program Budget for the current Fiscal Year. In FY 2021-22, Partner will present the SHS Program Budget in a form reasonably designed to identify Budgeted Program Funds for that Fiscal Year. Starting in FY 2022-2023, Partner must submit Annual Program Budgets using a template jointly created and approved by Metro and the Counties and must include in its Annual Program Budget its "spend-down plan" for that year, as described below, and information on the amount of other funds Partner has allocated to SHS, and changes, if any, to that funding level from the prior Fiscal Year, as described in **Section 5.5.1.1**. If the Annual Program Budget is amended by Partner's governing

body, Partner must submit to Metro the amended Program Budget within 60 days of the governing body's approval. Partner agrees to provide funding for SHS as described in the Program Budget; provided, however, that Partner is only obligated to provide funding for SHS in the amounts actually received from Metro. A failure to submit an Annual Program Budget to Metro by the end of the first quarter and any material deviation from the Annual Program Budget without prior notice and explanation to Metro may be cause for Metro to initiate the dispute resolution process in **Section 10.1**.

5.5.2.1. **SPEND-DOWN PLAN**. Partner's "spend-down plan" should describe the nature and timing of planned spending of Program Funds it expects to receive in the Fiscal Year based on the FRT's forecast. In addition, the description will document existing and contemplated reserves, any program reserves, funds anticipated to be carried over for SHS programming into the following Fiscal Year(s) with the anticipated timeline for spending of those funds, and such other information as the Parties agree to in writing. Partner will report on, and explain any material deviations from, the plan reflected in its Budgeted Program Funds as part of its Quarterly Progress Report. A "material deviation" from a spend-down plan described under this section, or a CAP, arises where the Program Funds spent in a given Fiscal Year cannot be reconciled against the spend-down plan or CAP in the relevant Annual Program Budget to the degree that no reasonable person would conclude that Partner's spending was guided by or in conformance with the applicable spend-down plan or CAP.

5.5.3. **PARTNER STABILIZATION RESERVE**. Partner will establish and hold a Stabilization Reserve to protect against financial instability within the SHS program and to insulate continuing program objectives from significant revenue fluctuations. The target minimum reserve level will be equal to 10% of Partner's Budgeted Program Funds in a given Fiscal Year. Stabilization Reserve funds may be used when the Program Funds allocated to Partner fall below the budgeted estimate for that time period and based on Partner's decision, informed by the FRT's assessment under **Section 6.2.5.2**, that release of such funds is needed to prevent significant program reductions. The Stabilization Reserve for each County will be fully funded within the first three years of the Term.

5.5.4. **CONTINGENCY**. Partner may establish and hold a contingency account in addition to a Stabilization Reserve. The contingency account will provide resources for emergency situations or unplanned SHS program expenditures that, if left unattended, could negatively impact service delivery. The contingency account will not exceed 5% of Budgeted Program Funds in a given Fiscal Year.

6. **PERFORMANCE AND FINANCIAL GOVERNANCE**.

6.1. **RECORDKEEPING, CONTROLS**. Each Party must:

6.1.1. maintain Records of payments made and funds received under this Agreement;

- 6.1.2. make an annual accounting of their use of Income Taxes and provide that accounting to their respective CFOs, Metro, and the ROC, and make that accounting available for review by the Partner Auditor and the Metro Auditor, as well as by any public accounting or auditing firms retained by a Party;
 - 6.1.3. exercise the rights and powers vested in it by this Agreement and use the same degree of care and skill as a prudent person would exercise or use under the circumstances; and
 - 6.1.4. ensure that any Income Taxes (including general tax receipts or reserves) held for more than one Fiscal Year are retained in accordance with state finance law and administered according to its investment policy. All proceeds of such investments will be added to Program Funds and otherwise must be spent on SHS programs or Administrative Expenses and Administrative Costs, as appropriate.
- 6.2. FINANCIAL REVIEW TEAM. The FRT is a technical committee charged with assessing Income Tax collections and the Region's overall financial health at regular intervals and on an as needed basis in order to support Metro, the Counties, and the ROC. FRT members may consult with the Metro Economist, any County economist, or other financial professionals as they deem appropriate. The role, membership, and responsibilities of the FRT are set forth below.
- 6.2.1. ROLE. The FRT's role is to provide financial analysis and advice to Metro, the Counties, and the ROC regarding the current and prospective adequacy of Program Funds to fund SHS programs. In addition, the FRT may provide periodic advice and reporting to any County, or other Party representative, as needed, including to County elected officials and elected members of the Metro Council.
 - 6.2.2. MEMBERSHIP. The FRT is composed of four members – the CFOs, or their designees, for the Counties, and the CFO, or their designee, for Metro. FRT members will provide Metro with their contact information.
 - 6.2.3. MEETINGS. The FRT will meet quarterly, or as often as needed as agreed between the CFOs, to review Income Tax collections, revenue projections, Program Funds disbursements, partner spending activity, any requests for disbursements from Stabilization Reserves, and to meet timelines specified between the FRT members. The Metro CFO will provide notice to the members at least five business days in advance of a meeting. Meetings may be held in person or by means of telephonic or electronic communications.
 - 6.2.4. REPORTS. The FRT and its members, in making their recommendations and reports on any task, do not have to reach consensus or vote on a single recommendation and may, instead, make as many recommendations as are needed to fully describe the members' opinions or the range of options being recommended by the members. If multiple FRT written recommendations or reports are made for a task, the document memorializing their deliberations will: (a) include all recommendations and reports submitted by FRT members, with each

recommendation including a full description of the recommended action(s); and (b) indicate which member(s) support each recommendation.

6.2.5. TASKS, REVIEWS. The tasks to be performed by the FRT, the criteria to evaluate, the timing and/or frequency of tasks, and the deliverable(s) for each task, are described below. Notice, reports, or advice described in the tasks below that are required to be in writing must be transmitted via email to the appropriate individuals using the contact information in **Exhibit 4**.

6.2.5.1. TASK 1. Develop a five-year revenue and expenditure forecast and advise the ROC, Counties, and Metro, as needed.

- a. TIMING/FREQUENCY. The forecast prepared under this Task 1 will be completed and made available annually by the first business day in the month of December. The FRT may revise and or enhance the forecast on a more frequent basis as needed.
- b. FRT ACTION. The revenue and expenditure forecast prepared by the FRT under this Task 1 will support the Counties in developing annual budgets or enhancing current year estimates. The FRT will assess tax collection activity, program expenditure activity, cash flows, adequacy of their respective Stabilization Reserves, and assess the overall financial health of the SHS program. Information to be reviewed in preparing annual forecast will include but is not limited to:
 - i. Local and national key economic indicators;
 - ii. Tri-County tax collection activity (current and historical) and collection rates;
 - iii. Historical spending trends by the Counties against their respective budgets;
 - iv. Review adequacy of Stabilization Reserve funds for each County; and
 - v. Review and assess County-held SHS contingency accounts.
- c. FRT DELIVERABLES. The FRT will prepare a written summary report based on the forecast of SHS Revenues and SHS expenditures created and provided by the Metro CFO under **Section 7.2.1.1**. The FRT's report will contain a five-year revenue/expenditure forecast, current SHS Revenue collection activity, economic factors impacting tax collections, spending activity by any County subject to a CAP (as described in **Section 6.3.5**), and adequacy of each County's Stabilization Reserve.

6.2.5.2. TASK 2. The FRT will develop a policy to establish and manage Stabilization Reserve funds. The policy will be completed no later than May 2, 2022. In addition, the FRT will review the adequacy of each County's Stabilization Reserve, review and recommend policies for establishment and usage of

reserves, use of reserves, and monitor timely restoration of required reserve levels.

- a. TIMING/FREQUENCY. At least annually, the FRT will assess adequacy of reserves and review instances of reserve usage.
- b. FRT ACTION. Make recommendations, as appropriate, regarding the usage of moneys from Stabilization Reserve funds. Set plan and timeline for reserve restoration.
- c. FRT DELIVERABLE. For instances when Stabilization Reserve usage is recommended, the FRT will prepare a report detailing the recommended amount to be used, description of the economic conditions that caused revenue shortfalls, planned program usages of reserves, and timeline to restore reserve.

6.3. OBLIGATIONS OF THE PARTIES.

- 6.3.1. DUTY TO RESPOND TO REGIONAL OVERSIGHT COMMITTEE. Each Party agrees to respond to any recommendations of the ROC reasonably related to carrying out the ROC's responsibilities. The Parties may respond by providing an explanation for why it disagrees with the recommendation, or any portion of a recommendation, or by identifying proposed strategies to address the recommendation(s). The Parties will submit written responses to the ROC.
- 6.3.2. DATA SHARING AGREEMENT. The Parties will enter into a data sharing agreement no later than May 31, 2022. The purpose of the data sharing agreement is to provide the Parties, and the oversight groups described in **Section 8**, with access to disaggregated, de-identified data, or as otherwise agreed to between the Parties, that allows for meaningful review of whether the Parties are achieving progress towards measurable goals, and to further aid in certain research, planning, and program evaluation.
- 6.3.3. PERIODIC REVIEW OF AGREEMENT. The Parties agree to convene to review this Agreement periodically. Beginning on July 1, 2023, either Party may request that the Parties and other Counties meet to consider amendments to this Agreement. If a request to consider amendments is made, the Parties agree to convene and, in a timely manner, assign adequate staff resources, establish a schedule for negotiations and participate in the negotiations in good faith.
- 6.3.4. GOOD FAITH PERFORMANCE. The Parties will execute their duties to each other and the ROC and TCPB in good faith.
- 6.3.5. CORRECTIVE ACTION PLAN. If after appropriate notice and opportunity to remedy identified concerns, Metro reasonably determines that Partner is not adhering to the terms of its Plan, current Annual Work Plan or Annual Program Budget, or current spend-down plan, then Metro may, with input from the ROC and from Partner, require Partner to develop a Corrective Action Plan. In determining whether a CAP is necessary, Metro may rely upon Partner's last Annual Program

Report, Quarterly Progress Reports, its Annual Program Budget, its Local Implementation Plan, and any other relevant document. The CAP will outline the actions needed by both Parties to achieve desired program outcomes and the timeline for completion. The Metro Chief Operating Officer and a leader identified by Partner's chief executive must approve a CAP for it to become effective. If either Party fails to timely or adequately perform the actions in the CAP, or if the Parties are unable to agree on a CAP, either Party may initiate dispute resolution.

6.4. PARTNER OBLIGATIONS.

- 6.4.1. CONSISTENCY BETWEEN BUDGETING, FUNDING. Partner agrees to use Budgeted Program Funds for SHS substantially as described in its Annual Program Budget. Partner may reallocate Budgeted Program Funds across SHS budget categories as needed to achieve program goals, provided that the reallocation does not materially and adversely affect performance of Partner's Annual Work Plan. Partner must report on, and justify, any material reallocations of Budgeted Program Funds in its next Quarterly Report.
- 6.4.2. SERVICES PROVIDERS MONITORING. Partner must monitor the activities of Services Providers as is reasonable to ensure compliance with this Agreement.
- 6.4.3. FORECASTING ASSISTANCE. Partner's CFO, as part of their work on the FRT, will consult with Metro's CFO and the CFOs for the other Counties on the annual forecasts of Income Tax collections described in **Section 7.2.1.1.**
- 6.4.4. DATA COLLECTION. Partner must maintain, individually or jointly by implementation of the Counties, a Homeless Management Information System (HMIS) that satisfies relevant federal regulatory requirements and that collects participant level data on programs funded by Program Funds. Metro's access and use of this data is the subject of the data sharing agreement described in **Section 6.3.2.**

6.5. METRO OBLIGATIONS.

- 6.5.1. SUPPORT REGIONAL COMMITTEES. In order for the Counties to meet their commitments under this Agreement and achieve the objectives of the Measure, Metro will ensure that the ROC and TCPB are convened, staffed, funded, and operating.
- 6.5.2. REVIEW OF PARTNER SHS SPENDING. Metro will annually review Partner's Annual Program Report for the previous Fiscal Year to evaluate how Program Fund expenditures impacted established SHS program metrics and whether Partner's spending was consistent with its Annual Program Budget.
- 6.5.3. PARTNER MONITORING. Upon reasonable written notice to Partner, Metro may reasonably monitor up to once per Fiscal Year, or for cause, not more than 25% of the SHS program activities described in a given Fiscal Year's Annual Work Plan, including Partner's associated Records and the Records of its Services Providers for that Fiscal Year. This monitoring will be to review Partner's and its Services

Providers' compliance with the terms of this Agreement. Ahead of any monitoring event under this section, the Parties must develop a written plan describing how Metro will conduct its review. Metro may use third-parties in its monitoring activities. Partner consents to reasonable monitoring by Metro, as set forth in this section, and agrees to reasonably cooperate with reasonable requests, and to require that its Services Providers also cooperate with reasonable requests.

6.5.4. DATA REPORTING PROGRAM. As more specifically described in the data sharing agreement identified in **Section 6.3.2**, Metro will establish a regional SHS program data collection and reporting program that supports tri-county regional collaboration.

7. REPORTING REQUIREMENTS.

7.1. PARTNER REPORTING REQUIREMENTS.

7.1.1. ANNUAL PROGRAM REPORT. No later than October 31 of each year, Partner will provide an Annual Program Report for the previous Fiscal Year to the ROC and Metro Council. The report will describe how Partner spent Program Funds in the previous Fiscal Year and how those expenditures contributed to outcomes as defined by Partner's Local Implementation Plan and, once established, regional outcome metrics. Partner will prepare the Annual Program Report using a template jointly created and approved by Metro and the Counties and will include the following:

7.1.1.1. Partner's Annual Program Budget and spend-down plan for the given Fiscal Year;

7.1.1.2. A certification consistent with **Section 5.5.1** that Partner did not reduce funding commitments for SHS in the Fiscal Year;

7.1.1.3. Reporting on all required outcome and equity metrics for the Region for the Fiscal Year, regional measurable goals, and any applicable performance evaluation metrics;

7.1.1.4. A summary of SHS program investments over the Fiscal Year (if not identified in the Annual Program Budget);

7.1.1.5. An analysis of how SHS program investments have contributed to the values and goals of the SHS program;

7.1.1.6. Any strategies to adjust or augment SHS programming to improve performance and outcomes in future years; and

7.1.1.7. A list of all the Services Providers under contract with Partner that received Program Funds, and the amount of funds received by each contractor.

7.1.2. QUARTERLY PROGRESS REPORT. Beginning at the end of the first Fiscal Year quarter after the Effective Date, and no later than 45 days after the end of each Fiscal Year quarter, Partner will prepare a Quarterly Progress Report and provide

that report to the ROC and Metro. Partner will prepare the Quarterly Report using a template jointly created and approved by Metro and the Counties that will include information on progress toward local and regional metrics, budgeted spending, transfers of Program Funds between Counties, and any material changes in programming or strategy from those set out in the Annual Work Plan. For reports created before the template is available, the information to be included in the reports will be as agreed to by the Parties.

7.2. METRO REPORTING REQUIREMENTS.

7.2.1. ANNUALLY. Each Fiscal Year, Metro must prepare and submit the reports provided for below.

7.2.1.1. FIVE-YEAR FORECAST. Metro's CFO, in consultation with the FRT, must prepare a five-year revenue forecast to support the Counties in developing their annual budgets and revising current year estimates as needed. The forecast will evaluate Income Taxes collection activity, SHS program expenditure activity, cash flows, adequacy of funds in Stabilization Reserves, economic factors impacting tax collections, and the overall financial health of the SHS program. Metro will provide these forecasts to the ROC and TCPB by the first business day in December, and provide timely updates of those projections, as available.

7.2.1.2. PROGRAM FUNDS REPORT. Metro will provide an annual report to the Counties of all Income Taxes not distributed to the Counties, and a breakdown of the use of those funds, including Income Taxes used to pay for collection and Administrative Expenses.

7.2.2. MONTHLY. Monthly each Fiscal Year, Metro must provide to the Counties a report on actual Income Tax collections for the reported month, and other readily available reports. If a requested report is not readily available, Metro will make a reasonable attempt to obtain that report.

8. SHS PROGRAM GROUPS.

8.1. EXECUTIVE COMMITTEE.

8.1.1. ROLE, FUNCTIONS. The Executive Committee addresses ongoing and specific SHS program implementation improvement needs as follows:

8.1.1.1. Regularly convene meetings between representatives from the Counties and Metro with the appropriate subject matter training and SHS background to learn about and respond to matters impacting SHS program implementation as they arise. At their meetings, members may work to understand strong criticisms of the SHS program or its implementation; connect issues brought to the committee to performances, rights, and obligations in the Agreement or Measure; and otherwise discuss and provide feedback regarding SHS program matters to promote ongoing cooperative efforts between all SHS program partners.

- 8.1.1.2. As needed and described in **Section 10.1**, convene as an informal problem solving body prior to the initiation of mediation or other remedies provided for under the Agreement.
- 8.1.1.3. As described in **Section 8.2.4**, convene to assess Metro-proposed changes to the ROC after a review by Metro of the ROC's role and effectiveness.
- 8.1.1.4. As described in **Section 10.2.3.6**, convene to consider whether a County has anticipatorily repudiated the Agreement.
- 8.1.2. **MEMBERSHIP**. Each County and Metro will appoint four individuals to serve as their respective representatives on the Executive Committee. Each party's delegation should be comprised of at least one individual each with program, policy, legal, and finance expertise, as well as familiarity with the terms of the Agreement and with the SHS program, generally. Each Executive Committee member serves until they are replaced by the public body that they represent.
- 8.1.3. **MEETINGS**. Any County or Metro may call for an Executive Committee meeting, and the committee may meet as often as needed to respond to issues arising under the Agreement and meet relevant timelines or requirements in this Agreement. Not all Executive Committee members need to attend each meeting if the Counties and Metro agree on limiting attendance to certain members based on the agenda for a meeting (e.g., to members with particular expertise, such as SHS program implementation). Metro will send written notice to members, including an agenda, at least five business days before a meeting. Meetings may be held in person or by means of telephonic or electronic communications.
- 8.1.4. **ACTIONS**. Executive Committee actions are by delegation, rather than based on individual members. Unless otherwise provided in the Agreement, the Executive Committee and each Party's delegation in making their recommendations on any matter do not have to reach consensus or vote on a single recommendation but may instead make as many recommendations as are needed to fully describe the opinions or the range of options being recommended by the committee and its delegations. If multiple written recommendations are made for a matter, the document memorializing their deliberations will: (a) include all recommendations submitted, with each recommendation including a full description of the recommended action(s); and (b) indicate which delegation(s) support each recommendation. If the Agreement calls for the Executive Committee to assess a specific matter and asks for the committee's delegations to "find" or vote regarding an outcome and based on a majority view, a "majority" of the Executive Committee delegations means at least three of the four delegations support the outcome.
- 8.2. **REGIONAL OVERSIGHT COMMITTEE**.
- 8.2.1. **PURPOSE AND AUTHORITY**. The ROC is charged with the SHS program oversight functions set forth in the Measure at Sections 5(2) and 14(2).

- 8.2.2. MEMBERSHIP. Metro will work cooperatively with the Counties to select ROC members.
- 8.2.3. MEETINGS. The ROC will convene in a manner that is consistent with the ROC Charter and as frequently as needed to meet its obligations under the Measure and Agreement.
- 8.2.4. PERIODIC REVIEW. Metro may conduct a review of the ROC's role and effectiveness as appropriate. If after its review Metro concludes, in good faith, that revisions to the ROC, including to the ROC Charter, are necessary then it will provide the Executive Committee with written findings detailing the issues it believes warrant changes to the ROC, and a description of the change(s) it proposes. The Executive Committee will review Metro's proposal(s) and determine whether the proposed change(s) alter the purpose or authority of the ROC, as set forth in the Measure at Section 5(2). If a majority of the Executive Committee's delegations find that the proposed changes do not alter the purpose or authority of the ROC, then Metro may implement its proposed changes 30 days after the Executive Committee's finding. If a majority of the committee's delegations find that Metro's proposed changes alter the purpose or authority of the ROC, then the following process applies:
- 8.2.4.1. Metro and the Counties may execute an amendment to the Agreement to implement Metro's proposed changes to the purpose, or authority of the ROC; or
- 8.2.4.2. Metro may implement its proposed change(s) to the purpose, or authority of the ROC with the majority written approval of the elected officials of the Counties, as follows:
- a. Metro will incorporate its proposed change(s) to the ROC into a revised ROC Charter and then circulate a redline of its proposed revisions to the charter to the Counties for their review and approval.
 - b. Any County that is amenable to the change(s) incorporated into the revised ROC Charter circulated by Metro may agree to the change(s) by sending a letter, signed with the approval of the County's board of commissioners, that describes the approved change(s) to the ROC Charter and confirms the County's approval of such change(s).
 - c. Metro may implement its proposed change(s) to the purpose, or authority of the ROC, as set forth in the revised ROC Charter, with the written approval of two of the three Counties as set forth above.

A Party that determines that a change to the ROC, implemented by Metro without approval through the above process, is outside the purpose or authority of the ROC, or otherwise violates the Agreement, may seek dispute resolution of that matter. Disputes arising under this **Section 8.2.4** may skip the review provided for in **Section 10.1.3**.

8.3. TRI-COUNTY PLANNING BODY.

- 8.3.1. PURPOSE. Metro will convene the TCPB to strengthen coordination among the Counties and Metro in addressing homelessness in the Region. The TCPB will identify Regional goals, strategies, and outcome metrics that support Regional SHS coordination and alignment. The TCPB will approve and incorporate strategies developed and investments made by each County that reasonably accomplish the Regional goals, strategies, and outcome metrics identified by the TCPB for the Tri-County Plan, and that the Tri-County Plan's purpose will be to support the successful implementation of each County's locally developed Plan.
- 8.3.2. TCPB CHARTER. Within 120 days of the Effective Date, Metro and the Counties will finalize the TCPB Charter which will describe a proposed structure, roles, and procedures for the TCPB, to be presented to the Parties' governing bodies for approval.
- 8.3.3. REGIONAL STRATEGY IMPLEMENTATION PLAN AND FUND. Each County must contribute not less than 5% of its share of Program Funds each Fiscal Year to a Regional Strategy Implementation Fund to achieve regional investment strategies. Partner may use the 5% for expenses that are consistent with the "measurable goals" described in the Metro SHS Work Plan at Section 5.2 until such time as the TCPB has developed new or different regional goals and provided the Parties with the Tri-County Plan detailing those goals. Each Fiscal Year, Partner must describe in its Annual Program Budget its investments in regional strategies during the reporting year. Partner may reimburse itself from its Regional Strategy Implementation Fund for its investments in regional strategies. Partner may collaborate with and pay other Counties from its Regional Strategy Implementation Fund to implement regional investment strategies in the Tri-County Plan.

8.4. METRO.

- 8.4.1. FUNCTIONS. Metro provides oversight and accountability for how Program Funds are spent by Partner under the SHS program through:
- 8.4.1.1. Adoption of Metro's SHS Work Plan and any amendments thereto;
 - 8.4.1.2. Approval of Local Implementation Plans and any Material Plan Amendments, as set forth in the Agreement and consistent with the mandate of providing Partner sufficient flexibility to best serve the needs of its residents, communities, and those receiving SHS;
 - 8.4.1.3. Appointing ROC members as set forth in **Section 8.2.2**; and
 - 8.4.1.4. Monitoring of program outcomes and metrics, with guidance from the ROC and, when formed, the TCPB.

9. RISK-SHARING.

9.1. NOTICE. If any third-party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 (a "Third-Party Claim") against a Party that one or more of the Parties may have liability, the Party against whom the Third-Party Claim was directed shall promptly notify the other Party in writing of the Third-Party Claim and provide the other Party with a copy of the claim, process and all legal pleadings with respect to the Third-Party Claim that have been received.

9.2. INDEMNIFICATION BY THE PARTIES.

9.2.1. PARTNER. Subject to the limits of the Oregon Tort Claims Act (OTCA) and the Oregon Constitution, Partner shall indemnify and hold harmless Metro and its officers, agents, and employees, or any of them from any and all liability, loss, costs, expenses, and damages of any nature whatsoever, by any reason of or arising out of any act or omission of Partner, its officers, agents, and employees, or any of them relating to or arising from Partner's performances under the Agreement. In the event that any suit based upon such a Third-Party Claim is brought against Metro, Partner shall defend the same at its sole cost and expense; provided that Metro reserves the right to participate in said suit if any principle of governmental or public law is involved; and if final judgment be rendered against Metro, and its officers, agents, and employees, or any of them, or jointly against Metro and Partner and their respective officers, agents, and employees, or any of them, Partner shall satisfy the same.

9.2.2. METRO. Subject to the limits of the OTCA and the Oregon Constitution, Metro shall indemnify and hold harmless Partner and its officers, agents, and employees, or any of them from any and all liability, loss, costs, expenses, and damages of any nature whatsoever, by any reason of or arising out of any act or omission of Metro, its officers, agents, and employees, or any of them relating to or arising from Metro's performances under the Agreement. In the event that any suit based upon such a Third-Party Claim is brought against Partner, Metro shall defend the same at its sole cost and expense; provided that Partner reserves the right to participate in said suit if any principle of governmental or public law is involved; and if final judgment be rendered against Partner, and its officers, agents, and employees, or any of them, or jointly against Metro and Partner and their respective officers, agents, and employees, or any of them, Metro shall satisfy the same.

9.3. INDEMNIFICATION BY SERVICES PROVIDERS. After the Effective Date, Partner will take reasonable steps to cause its Services Providers that are not units of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless Metro and its officers, employees and agents from and against any and all claims and losses arising from a tort (as now or hereafter defined in ORS 30.260) caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Partner's Services Provider or any of the officers, agents, employees or subcontractors of the Services Provider.

10. DISPUTES, REMEDIES.

10.1. DISPUTE RESOLUTION. In the event a dispute arises between the Parties regarding this Agreement, including where a Party determines that the other is not complying with the Agreement, the Parties will use the following process to attempt to resolve the dispute.

10.1.1. A Party will provide the other with written notice of the dispute. The notice will describe the dispute, or if the notice arises from non-compliance with the Agreement, describe evidence of non-compliance and the steps the Party believes are needed to restore compliance with the Agreement. Unless otherwise provided for in the Agreement, the Party receiving notice will have 30 days from the date it receives the notice to restore compliance with the Agreement. If the non-compliance issue is of such a nature that it cannot reasonably be cured within 30 days, the Party on notice of its non-compliance will have such additional time as required to restore its compliance with the applicable terms of the Agreement, as long as it is acting in a reasonable manner and in good faith.

10.1.2. If the non-compliant Party does not reasonably correct the non-compliance concern or if the dispute is not otherwise resolved between the Parties within the time allowed, the Parties will attempt to settle the issue through good faith negotiation. This may be done at any management level, including at a level higher than persons directly responsible for administration of the Agreement.

10.1.3. If the Parties are unable to resolve the issue through such negotiation, or such negotiations have not resolved the dispute or non-compliance concern within 30 days from the date a Party first issues written notice as provided in **Section 10.1.1** and the Parties have not agreed to an extension of time to negotiate, the Parties will submit the issue to the Executive Committee as provided in **Section 8.1**. The Executive Committee will attempt to resolve the dispute or non-compliance concern on terms acceptable to both Parties.

10.1.4. If the Executive Committee is unable to resolve the dispute or non-compliance concern within 30 days of their first meeting regarding the issue, and the Parties have not agreed to an extension of time for the Executive Committee to resolve the dispute, the Parties will then attempt in good faith to resolve the issue by facilitated mediation. The Parties agree to attend at least four hours of mediation before resorting to arbitration, litigation, or some other dispute resolution procedure. The Parties agree to schedule the mediation within 60 days of written notice from the Executive Committee that it is unable to resolve the dispute or non-compliance concern.

10.1.5. The Parties will attempt to use the services of a mutually agreed upon mediator, with a preference for a mediator with experience in mediating disputes between local governments. If the Parties cannot mutually agree on a mediator within 14

business days of having submitted a possible mediator candidate, or the mediation is unsuccessful, either party may proceed to arbitration or litigation.

10.1.6. Each Party is responsible for its own dispute-related costs. The Parties will each pay for half of any mutually retained mediator or arbitrator's services and costs.

10.1.7. Nothing prevents a Party from resorting to a court of competent jurisdiction in those instances where injunctive relief may be appropriate; or, if the Parties agree, seek arbitration to resolve the dispute or non-compliance concern. Any dispute submitted for arbitration will be settled in accordance with the commercial arbitration rules of the Arbitration Services of Portland, Inc., then in effect, and judgment on the award may be entered in any court having jurisdiction.

10.2. REMEDIES.

10.2.1. BREACH BY PARTNER. Subject to the dispute resolution process set forth in **Section 10.1** and the limits of the OTCA and the Oregon Constitution, if Metro reasonably believes that Partner (a) has failed to comply timely with any material obligation under this Agreement or its Local Implementation Plan, or (b) is not spending its Program Funds according to the terms of this Agreement, then Metro may exercise any remedy available to it under this Agreement or applicable law, including but not limited to injunctive relief and termination of the Agreement.

10.2.2. BREACH BY METRO. Subject to the dispute resolution process set forth in **Section 10.1** and the limits of the OTCA and the Oregon Constitution, if Partner believes that Metro (a) has failed to comply timely with any material obligations under this Agreement, the Metro SHS Work Plan, or applicable law, or (b) is not disbursing funds timely or in the amount required under this Agreement, then Partner may exercise any remedy available to it under this Agreement or applicable law, including but not limited to injunctive relief and termination of the Agreement.

10.2.3. WITHHOLDING PROGRAM FUNDS. If Metro in good faith determines that Partner has Misused, as defined below, Program Funds, and after engaging in any relevant responsive process set forth in the Agreement, then Metro may withhold from future Program Fund allocations to Partner an amount equal to the Misuse, as provided below, until Partner corrects the Misuse as set forth below.

10.2.3.1. "Misuse" means Partner: (a) used Program Funds for non-SHS purposes; (b) except as provided for in **Section 4.1**, spending Program Funds outside the Region; or (c) failed to comply with a CAP.

10.2.3.2. NOTICE AND DISPUTE RESOLUTION. Prior to withholding future Program Funds, Metro will provide Partner written notice of the alleged Misuse and immediately begin the dispute resolution process set forth in **Section 10**. If the Parties have not resolved the dispute within 90 days of Partner receiving written notice of the Misuse, Metro may withhold future Program Funds in an amount equal to the alleged Misuse. Notwithstanding the 90-day period provided herein, Metro will not withhold future Program Funds if Metro reasonably determines

the Parties are attempting, in good faith, to resolve the dispute through the dispute resolution process set forth in **Section 10**.

- 10.2.3.3. TERMINATION OF WITHHOLDING. Metro's right to withhold future Program Funds terminates upon the occurrence of one of the following:
- a. APPROPRIATE SPENDING. Partner either, as appropriate: (i) provides funding towards an eligible Partner SHS program, through non-Program Funds dollars, in an amount equal to Partner's Misuse; or (ii) spends Program Funds in a manner consistent with a CAP.
 - b. COURT ORDER. A tribunal (i.e., a court of competent jurisdiction or an arbitrator) determines that Partner's use of Program Funds was permissible under this Agreement.
- 10.2.3.4. EXAMPLES OF MISUSE AND NON-MISUSE. The following are examples of expenditures that constitute Misuse under this subsection: using Program Funds to repair roads, hire corrections or parole officers, or to pay for public improvements unrelated to the provision of SHS. The following examples do not constitute Misuse: spending Program Funds on eligible SHS programs but differently than as described in the Plan or Annual Work Plan, provided the spending does not materially deviate from the approved Local Implementation Plan or Material Plan Amendment; spending less than provided for in an applicable Annual Program Budget because of insufficient Program Funds received from Metro; reserving Program Funds over multiple Fiscal Years to pay contractual, project-based rent assistance requirements; spending Program Funds on SHS programming but through other departments or agencies, such as on behavioral health services for people experiencing homelessness, and spending on juvenile homelessness; spending Program Funds on capacity building; and spending Program Funds on debt service for loans benefitting a SHS program.
- 10.2.3.5. CORRECTIVE ACTION PLAN-BASED WITHHOLDING. Upon completion of the dispute resolution process set forth in **Section 10**, if Partner fails to comply with a CAP, then Metro may temporarily withhold an amount equal to the under-expenditure until Partner corrects the under-expenditure by spending Program Funds in accordance with its CAP.
- 10.2.3.6. PROGRAM FUNDS RE-ALLOCATION FOR BREACH. Metro may re-allocate Program Funds withheld from one County (the "Repudiating County") and disburse those Program Funds to one or more other Counties to be used within the boundaries of the Repudiating County if a majority of the Counties' delegations to the Executive Committee find that the Repudiating County has anticipatorily repudiated the Agreement. If a majority of the Counties' delegations find that an anticipatory repudiation has occurred, then the following process applies:

- a. Metro and the County or Counties receiving re-allocated Program Funds may execute an amendment to the Agreement to describe the relevant terms for and to implement the re-allocation; or
- b. Metro and the County or Counties receiving re-allocated Program Funds may implement the re-allocation with the signed, written approval of their chief elected officials on a document describing the relevant terms governing the re-allocation and use of Program Funds.

The Repudiating County may seek dispute resolution of that matter in accordance with **Section 10.1** or, at the Repudiating County's discretion, may immediately file suit with a court of competent jurisdiction (or commence arbitration, if agreed to by all parties) challenging the determination that the Repudiating County anticipatorily repudiated the Agreement.

11. GENERAL PROVISIONS.

- 11.1. COOPERATION OF GOVERNMENT UNITS. This Agreement is an intergovernmental agreement subject to Chapter 190 of the Oregon Revised Statutes. The Agreement is an authorization by a public body under ORS 190.010 for a Party to perform one or more inherent governmental responsibilities for another Party.
- 11.2. ACCESS TO, MAINTENANCE OF RECORDS. Each Party is allowed access to the books, documents and other Records of the other Party that are related to this Agreement for the purpose of examination, copying and audit, unless otherwise limited by law. The Parties will retain, maintain, and keep accessible all Records for a minimum of seven years following Agreement termination, unless a longer period of time is required under law. The Parties will maintain financial Records in accordance with generally accepted accounting principles.
- 11.3. MEDIA RELEASES, PUBLIC ACKNOWLEDGMENT. The Parties acknowledge the value in coordinating public communications about the SHS program and will make reasonable efforts to provide notice to each other prior to issuing press releases, holding press conferences, or engaging in other pre-planned public communications about the program. The Parties will use reasonable efforts to notify each other prior to releasing communications between the Parties to the public. Similarly, each Party will make reasonable efforts to publicly recognize the other and the SHS program in any publications, media presentations, or other presentations relating to or describing SHS programs and services supported by Income Taxes, including and as applicable by providing a speaking opportunity for the elected official(s) for the district in which a Party-organized event occurs.
- 11.4. NOTICE. A notice or communication under this Agreement by a Party to another Party is sufficiently delivered if sent with all applicable postage or delivery charges prepaid by: (a) personal delivery; (b) sending a confirmed email copy (either by automatic electronic confirmation or by affidavit of the sender) directed to the email address of the Party set forth below; (c) registered or certified U.S. mail, return receipt

requested; or (d) delivery service or “overnight delivery” service that provides a written confirmation of delivery, each addressed to a Party as set forth in **Exhibit 4**.

Each Party may specify a different address for subsequent notice purposes. Notice is deemed effective on the earlier of actual delivery or refusal of a Party to accept delivery, provided that notices delivered by email are not deemed effective unless the individual to whom an email is sent confirms receipt of the email.

- 11.5. SUCCESSORS; NO ASSIGNMENT, THIRD-PARTY BENEFICIARIES. This Agreement binds each Party, its successors, assigns and legal representatives. No Party may voluntarily assign or transfer its obligations to any third-party. Nothing in this Agreement provides any benefit or right to any non-party unless such third-person is individually identified by name in this Agreement and expressly described as an “intended third-party beneficiary” of this Agreement.
- 11.6. ADHERENCE TO LAW. The Parties will adhere to all applicable federal and state laws in all activities under this Agreement.
- 11.7. WAIVERS. No waiver made by a Party with respect to performance, or the manner or time of performance, of any obligation of another Party or any condition under this Agreement will be considered a waiver of any other rights of the Party making the waiver or a waiver by any other Party. No waiver by a Party of any provision of this Agreement will be of any force or effect unless in writing and no waiver may be construed to be a continuing waiver.
- 11.8. TIME OF THE ESSENCE. Time is of the essence of this Agreement.
- 11.9. CHOICE OF LAW AND FORUM. This Agreement will be construed in accordance with the laws of the state of Oregon and any action brought under this Agreement will be brought in Multnomah County, Oregon, if in state court, and in the United States District Court for the District of Oregon in Portland, if brought in federal court.
- 11.10. MODIFICATION OR AMENDMENT. This Agreement may only be modified or amended by a writing signed by each of the Parties. No modification or amendment to any provision of this Agreement may be implied from any course of performance, any acquiescence by any Party, any failure of any Party to object to another Party’s performance or failure to perform, or any failure or delay by any Party to enforce its rights.
- 11.11. HEADINGS. Any titles of the sections of this Agreement are inserted for convenience of reference only and will be disregarded in construing or interpreting its provisions.
- 11.12. COUNTERPARTS; ELECTRONIC TRANSACTION. This Agreement may be executed in counterparts, each treated as an original, and the counterparts will constitute one document. The Parties agree that they may conduct this transaction, including any amendments or extension, by electronic means including the use of electronic signatures and facsimiles.

- 11.13. SEVERABILITY. If any term or provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, that holding does not invalidate or render unenforceable any other provision of this Agreement.
- 11.14. CONSTRUCTION AND INTERPRETATION. To the extent consistent with the context, words in the singular include the plural, words in the masculine gender include the feminine gender and the neuter, and vice versa. All provisions of this Agreement have been negotiated at arm's length, and this Agreement may not be construed for or against any Party by reason of the authorship or alleged authorship of any provision of this Agreement.
- 11.15. IMPLEMENTATION. The Parties agree to take all actions and execute all documents necessary to effect the terms of this Agreement.
- 11.16. NO ATTORNEY FEES. Each Party is responsible for its own attorneys' fees and expenses to enforce any term of this Agreement in the event any arbitration, action or proceeding (including any bankruptcy proceeding) is instituted.
- 11.17. RELATIONSHIP OF PARTIES. Nothing in this Agreement nor any acts of the Parties under this Agreement may be deemed or construed by the Parties, or by any third person, to create the relationship of principal and agent, or of partnership, or of joint venture or any association between any County and Metro.
- 11.18. FORCE MAJEURE. Neither Party shall be in default of the Agreement by reason of any failure or delay in the performance of its obligations where such failure or delay is caused by circumstances or causes beyond a Party's reasonable control including, but not limited to, civil disturbances, riot, rebellion, invasion, epidemic, hostilities, war, terrorist attack, embargo, natural disaster, acts of God, flood, fire, sabotage, fluctuations or non-availability of electrical power, heat, light, air conditioning or equipment, loss and destruction of property.

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SUPPORTIVE HOUSING SERVICES INTERGOVERNMENTAL AGREEMENT
Signatures

Metro Regional Government

Approved as to form

Marissa Madrigal, Chief Operating Officer

Date: _____

Carrie MacLaren, Metro Attorney

Date: _____

Washington County

Approved as to form

Kathryn Harrington, Chair

Date: _____

Tom Carr, County Attorney

Date: _____

EXHIBIT 1
Ballot Measure 26-210

The People of Metro ordain as follows:

SUPPORTIVE HOUSING SERVICES OVERVIEW

SECTION 1. Title

The provisions contained herein are to administer the Metro Supportive Housing Services Revenue, referred to as the “Supportive Housing Services Revenue.”

SECTION 2. Finding of Metropolitan Concern

Homeless and housing services is a matter of metropolitan concern over which Metro may exercise jurisdiction.

SECTION 3. Purpose

The Supportive Housing Services Revenue will fund services for people experiencing homelessness and housing instability.

PROGRAM IMPLEMENTATION

SECTION 4. Services and Priorities

Supportive Housing Services Revenue will fund Supportive Housing Services, including: street outreach services; transition and placement services; in-reach, basic survival support, and mental health services; interventions and addiction services (crisis and recovery); physical health services; interventions for people with physical impairments and disabilities; short and long-term rent assistance; eviction prevention; financial literacy, employment, job training and retention education; peer support services; workplace supports; benefits, navigation and attainment (veteran benefits, SSI, SSDI, other benefits); landlord tenant education and legal services; fair housing advocacy; shelter services; bridge/transitional housing placement; discharge interventions; permanent supportive housing services; affordable housing and rental assistance and other supportive services. Supportive Housing Services Revenue and Supportive Housing Services will first address the unmet needs of people who are experiencing or at risk of experiencing long-term or frequent episodes of homelessness. Supportive Housing Services Revenue and Supportive Housing Services will be prioritized in a manner that provides equitable access to people of color and other historically marginalized communities.

SECTION 5. Oversight Committee

1. **Committee Established.** A 20-member regional oversight committee (hereafter, “Supportive Housing Services Regional Oversight Committee” or “Regional Oversight Committee”) will oversee the Supportive Housing Services Program.
2. **Purpose and Authority.** The purpose and authority of the Supportive Housing Services Regional Oversight Committee is to:
 - a. Evaluate local implementation plans, recommend changes as necessary to achieve program goals and guiding principles, and make recommendations to Metro Council for approval;
 - b. Accept and review annual reports for consistency with approved local implementation plans;
 - c. Monitor financial aspects of program administration, including review of program expenditures; and
 - d. Provide annual reports and presentations to Metro Council and Clackamas, Multnomah, and Washington County Boards of Commissioners assessing performance, challenges, and outcomes.
3. **Membership.** The Supportive Housing Services Community Oversight Committee is composed of 20 members, as follows:
 - a. Five members from Clackamas County.
 - b. Five members from Multnomah County.
 - c. Five members from Washington County.
 - d. One representative from each of the Clackamas, Washington, and Multnomah County Board of Commissioners and the Portland City Council to serve as ex officio members.
 - e. One member of the Metro Council to serve as a non-voting delegate.
4. **Membership Representation.** The membership must be composed of persons who represent the following experiences, organizations and qualities:
 - a. Has experience overseeing, providing, or delivering Supportive Housing Services;
 - b. Has lived experience of homelessness or severe housing instability;
 - c. Has experience in the development and implementation of supportive housing and other services;
 - d. Has experience in the delivery of culturally-specific services;
 - e. Represents the private-for-profit sector;
 - f. Represents the philanthropic sector;
 - g. Represents communities of color, Indigenous communities, people with low incomes, immigrants and refugees, the LGBTQ+ community, people with disabilities, and other underserved and/or marginalized communities; and

h. Represents a continuum of care organization.

A person may represent more than one of the subsections above. The membership must have broad representation and geographical diversity.

5. Terms. Nine of the initial Committee members will serve a one year term, and the Council may reappoint those nine members for up to two additional two-year terms.
6. Oversight Committee Review. Metro may conduct a review of the regional oversight committee's role and effectiveness as appropriate.

SECTION 6. Local Implementation Plans

1. Local implementation plans are intended to document the proposed use of funds and how these uses align with the purposes of the Supportive Housing Services Measure. A plan must be submitted to the Oversight Committee for review and approval before the Metro Council approves it.
2. Local implementation plans must be developed using locally convened and comprehensive engagement processes that prioritize the voices of people with lived experience and from communities of color.
3. The locally convened body that develops the local implementation plan must include a broad array of stakeholders to develop the plan. Each county may convene a new committee or use a standing committee if the standing committee can demonstrate a track record of achieving equitable outcomes in service provisions to regional oversight committee.
4. Members of the convened body that develops the local implementation plan must include:
 - a. People with lived experience of homelessness and/or extreme poverty;
 - b. People from communities of color and other marginalized communities;
 - c. Culturally responsive and culturally specific service providers;
 - d. Elected officials, or their representatives, from the county and cities participating in the regional affordable housing bond;
 - e. Representatives from the business, faith, and philanthropic sectors;
 - f. Representatives of the county/city agencies responsible for implementing homelessness and housing services, and that routinely engage with the unsheltered population;
 - g. Representatives from health and behavioral health who have expertise serving those with health conditions, mental health and/or substance use disorder from culturally responsive and culturally specific service providers; and
 - h. Representation ensuring geographical diversity.

5. Local implementation plans must include the following:
 - a. A strategy for equitable geographic distribution of services within the respective jurisdictional boundary and the Metro district boundary.
 - b. A description of how the key objectives of Metro's Strategic Plan to Advance Racial Equity, Diversity, and Inclusion have been incorporated. This should include a thorough racial equity analysis and strategy that includes: (1) an analysis of the racial disparities among people experiencing homelessness and the priority service population; (2) disparities in access and outcomes in current services for people experiencing homelessness and the priority service population; (3) clearly defined service strategies and resource allocations intended to remedy existing disparities and ensure equitable access to funds; and (4) an articulation of how perspectives of communities of color and culturally specific groups were considered and incorporated.
 - c. A review of current system investments or capacity serving priority populations, an analysis of the nature and extent of gaps in services to meet the needs of the priority population, broken down by service type, household types, and demographic groups.
 - d. A description of the planned investments that includes: (1) the types of services, and how they remedy the service gap analysis; (2) the scale of the investments proposed; (3) the outcomes anticipated; and (4) the service delivery models that will be used in each area of service.
 - e. A plan for coordinating access to services with partnering jurisdictions and service providers across the region.
 - f. A plan for tracking and reporting outcomes annually and as defined through regional coordination.
 - g. A plan to evaluate funded services and programs.
 - h. A description of how funds will be allocated to public and non-profit service providers, including transparent procurement processes, and a description of the workforce equity procurement standards.
 - i. A commitment that funding will be allocated as follows: (a) 75 percent for people who have extremely low incomes and one or more disabling conditions, who are experiencing long-term or frequent episodes of literal homelessness or are at imminent risk of experiencing homelessness; and (b) 25 percent for people who are experiencing homelessness or face/have substantial risk of homelessness.
 - j. A description of how the plan will remove barriers to full participation for organizations and communities by providing stipends, scheduling events at accessible times and locations, and other supportive engagement tactics.
 - k. A description of how the plan will prioritize funding to providers who demonstrate a commitment and delivery to under-served and over-represented populations, with culturally specific and/or linguistically specific services, as well as those programs that have the lowest barriers to entry and actively reach out to communities often screened out of other programs.

6. Each county must provide a report annually on its progress under the local implementation plan to the regional services oversight committee that will discuss progress towards outcomes in each of the service areas identified in the local implementation plan and a separate analysis of progress toward the implementation of the county's racial equity strategy. Reports will also include municipal investments from cities within Metro who have either increased or decreased contributions to homeless services for the priority population. Existing reports may be used.
7. Metro recognizes that each county may approach program implementation differently depending on the unique needs of its residents and communities. Therefore, it is the policy of the Metro Council that there be sufficient flexibility in implementation to best serve the needs of residents, communities, and those receiving Supportive Housing Services from program funding.

SECTION 7. Allocation of Revenue

1. After Metro has first retained funds necessary to pay for collection of the taxes, Metro may retain up to five percent of the remaining collected funds for administration and oversight as more fully described in Section 14(1).
2. After the funds have been allocated for collection, administration and oversight as set forth in subsection (1), Metro will then allocate the remaining Supportive Housing Services Revenue within each county using the following percentages: 21 1/3 percent to Clackamas County, 45 1/3 percent to Multnomah County and 33 1/3 percent to Washington County.
3. The percentages set forth in subsection (2) apply to revenue for the first two tax years. Thereafter, the percentages may be adjusted to reflect the portion of Supportive Housing Services Revenue actually collected in each county.

SECTION 8. Equity and Community Engagement

1. Metro has adopted a Strategic Plan to Advance Racial Equity, Diversity, and Inclusion which includes specific goals and objectives to ensure that all people who live, work and recreate in the greater Portland region have the opportunity to share in and help define a thriving, livable and prosperous region. A key objective throughout the strategy is a commitment to advance equity related to stable and affordable housing.
2. In implementing the Supporting Housing Services Measure, Metro will rely on the goals and objectives within the Strategic Plan to:
 - Convene regional partners to advance racial equity outcomes in supportive housing services.

- Meaningfully engage with communities of color, Indigenous communities, people with low incomes and other historically marginalized communities in establishing outcomes and implementing the Supportive Housing Services Program.
 - Produce and provide research and information to support regional jurisdictions in advancing equity efforts.
 - Increase accountability by ensuring involvement of communities of color in establishing goals, outcomes, and implementation and evaluation efforts.
 - Increase participation of communities of color in decision-making.
 - Use equity criteria in resource allocation for the Supportive Housing Services Program.
3. Metro will actively work to remove barriers for organizations and communities to ensure full participation by providing stipends, scheduling events at accessible times and locations, and other supportive engagement tactics.

SECTION 9. Prohibition on Displacement of Funds Currently Provided

1. The purpose of the Supportive Housing Services tax is to provide revenue for Supportive Housing Services in addition to revenues provided for those services by the local governments within Metro.
2. In the event that any local government within Metro reduces the funds provided for Supportive Housing Services by that local government, Supportive Housing Services Revenue may not be provided to that local government or be used to provide Supportive Housing Services within the boundaries of that local government. This section is intended to prevent any local government from using Supportive Housing Services Revenue to replace funds currently provided by that local government.
3. A local government may seek a temporary waiver from this section for good cause, including but not limited to a broad economic downturn.

TAX COLLECTION REQUIREMENTS

SECTION 10. Voter Approval Ordinance No. 20-1442; Rates; Exemptions

Metro Council Ordinance No. 20-1442 is approved as follows.

1. Personal Income Tax; Rate. Beginning tax year 2021, a tax of one percent is imposed on the entire taxable income over \$200,000 if filing jointly and \$125,000 if filing singly on every resident of the district subject to tax under ORS chapter 316 and upon the taxable income over \$200,000 if filing jointly and \$125,000 if filing singly of every nonresident that is derived from sources within the district which income is subject to tax under ORS chapter 316.

2. Business Profits Tax; Rate. Beginning tax year 2021, a tax of one percent is imposed on the net income of each person doing business within Metro.
3. Exception for Small Businesses. Persons whose gross receipts from all business income, both within and without Metro, amount to less than or equal to \$5 million are exempt from payment of the business profits tax.
4. Exemptions Required by Law. Persons whom Metro is prohibited from taxing under the Constitution or laws of the United States or the Constitution or laws of the State of Oregon, or the Metro Charter are exempt from payment of the taxes set forth in this section.

SECTION 11. Tax Must be Re-Authorized or Discontinued After Ten Years

1. Metro may assess the taxes imposed by section 10 through the tax year ending December 31, 2030.
2. After December 31, 2030, the tax will expire unless reauthorized by the voters on or before that date. After the tax expires, Metro or the entity authorized to collect the tax may continue to take all reasonable and necessary actions to ensure that taxes still owing are paid in full.

SECTION 12. Collection of Funds

1. It is Metro's intent to enter into an intergovernmental agreement with an Oregon taxing agency to collect Supportive Housing Services Revenues.
2. If Metro is unable to enter into an intergovernmental agreement for the collection of Supportive Housing Services Revenues after good faith efforts to do so, Metro may collect the funds.

SECTION 13. Use of Revenues

Unless expressly stated otherwise in this measure, Supportive Housing Services Revenues may only be used for the purposes set forth in Sections 3, 4, 12, and 14. Metro may establish a separate fund or funds for the purpose of receiving and distributing Supportive Housing Services Revenues.

SECTION 14. Administrative Cost Recovery

1. After Metro's tax collection costs are paid, Metro may retain up to five percent of the remaining funds to pay for the costs to disburse the funds and administer and oversee the program. This includes convening and supporting the regional oversight committee;

establishing a regional homelessness data collection and reporting program; and supporting tri-county regional collaboration.

2. At least annually the Regional Oversight Committee will consider whether Metro's collection and administrative costs and each county's administrative costs could or should be reduced or increased. The Regional Oversight Committee will recommend to the Metro Council at least once a year as to how Metro can best limit its collection and administrative costs.
3. In establishing a new Supportive Housing Services Revenue fund, it is the policy of the Metro Council to ensure public transparency and accountability regarding the funding, creation and implementation of this program. It is further the policy of the Metro Council to maintain low administrative costs to ensure that the maximum amount possible of the tax revenue is used to achieve the purposes of Supportive Housing Services.

SECTION 15. Use of Funds in Metro Jurisdictional Boundary Only

Although some portion of each of the three recipient counties (Multnomah, Washington and Clackamas) are outside of the Metro jurisdictional boundary, Supportive Housing Services Revenues collected may be spent only for Supportive Housing Services provided within the Metro jurisdictional boundary.

SECTION 16. Accountability of Funds; Audits

1. Each county or local government receiving funds must make an annual report to the Metro Council and the oversight committee on how funds from the taxes have been spent and how those expenditures have affected established homelessness metrics.
2. Every year a public accounting firm must conduct a financial audit of the revenue generated by the taxes and the distribution of that revenue. Metro will make public the audit and any report to the Metro Council regarding the results of the audit. Metro may use the revenue generated by the taxes to pay for the costs of the audit required under this subsection.
3. The revenue and expenditures from the taxes are subject to performance audits conducted by the Office of the Metro Auditor.

SECTION 17. Ownership of Taxpayer Information

Metro is the sole owner of all taxpayer information under the authority of this measure. The Chief Financial Officer has the right to access all taxpayer information for purposes of administration.

SECTION 18. Confidentiality

1. Except as provided in this measure or otherwise required by law, it is unlawful for the Chief Financial Officer, or any elected official, employee, or agent of Metro, or for any person who has acquired information pursuant to this measure to divulge, release, or make known in any manner any financial information or social security numbers submitted or disclosed to Metro under the provisions of this measure and any applicable administrative rules.
2. Nothing in this section prohibits the disclosure of general statistics in a form that would prevent the identification of financial information or social security numbers regarding an individual taxpayer.

SECTION 19. Examination of Books, Records or Persons

The Chief Operating Officer or its designee may examine any books, papers, records, or memoranda, including state and federal income tax returns, to ascertain the correctness of any tax return or to make an estimate of any tax. The Chief Operating Officer or its designee has the authority, after notice, to require verification of taxpayer information in order to carry out the provisions of this measure.

SECTION 20. Conformity to State Laws

1. For the personal income tax, it is Metro's policy to follow the state of Oregon laws and regulations adopted by the Department of Revenue relating to personal income tax. The Supportive Housing Services Revenue will be construed in conformity with laws and regulations imposing taxes on or measured by net income.
2. For the business profits tax, it is Metro's policy to utilize, as guidance, the Multnomah County Business Income Tax rules and procedures.
3. If a question arises regarding the tax on which this measure is silent, the Chief Operating Officer may look to state law for guidance in resolving the question, provided that the determination under state law is not in conflict with any provision of this measure or the state law is otherwise inapplicable.

SECTION 21. Tax as a Debt; Collection Authority

1. The tax imposed by this measure, as well as any penalties and interest, becomes a personal debt due to Metro at the time such liability for the tax is incurred.
2. Metro is authorized to collect any deficient taxes, interest and penalties owed. This includes initiating and defending any civil actions and other legal proceedings.

FURTHER IMPLEMENTATION

SECTION 22. Administrative Rules

The Chief Operating Officer or designee may adopt administrative rules, forms, guides and policies to further implement the provisions of this measure. Any rule adopted by the Chief Operating Officer has the same force and effect as any Metro Code provision. In adopting administrative rules, the Chief Operating Officer or designee may seek guidance from the Oregon Department of Revenue's rules and procedures and Multnomah County's business income tax's rules and procedures.

SECTION 23. Tri-County Planning

1. Metro will annually allocate a portion of resources from its administrative costs to provide the staffing and logistical support to convene and maintain a tri-county homeless services planning body. This body will develop and implement a tri-county initiative that will be responsible for identifying regional goals, strategies, and outcome metrics related to addressing homelessness in the region.
2. The counties must present to the regional services oversight committee for its approval a proposal to implement the tri-county planning requirement.
3. Each county must annually contribute no less than five percent of each of the counties' share of the Supportive Housing Services Revenue to a regional strategy implementation fund.
4. The proposed governance structure of the tri-county planning body must be inclusive of people representing at least the perspectives required in Section 6(4).
5. Within one year of the adoption of the tri-county initiative plan, and as needed thereafter, each county will bring forward amendments to its Local Implementation Plan that incorporate relevant regional goals, strategies, and outcomes measures.

DEFINITIONS

SECTION 24. Definitions

For the purpose of this measure, the terms used are defined as provided in this section unless the context requires otherwise.

Nonresident means an individual who is not a resident within the Metro jurisdictional boundary.

Person means, but is not limited to an individual, a natural person, proprietorship, partnership, limited partnership, family limited partnerships, joint venture (including tenants-in-common arrangements), association, cooperative, trust, estate, corporation, personal holding company, limited liability company, limited liability partnership or any other form of organization for doing business.

Resident means a taxpayer domiciled within the Metro jurisdictional boundary for any portion of the taxable year.

Supportive Housing Services means homeless prevention, support services and rent assistance that stabilize people experiencing homelessness and housing instability, including those specific services described in Section 4.

Supportive Housing Services Revenue means all funds received from the taxes imposed by Section 10.

Tax Year means the taxable year of a person for federal or state income tax purposes.

Taxpayer means any natural person, or married couple or head of household filing a joint return, whose income in whole or in part is subject to the tax imposed by this measure.

SECTION 25. Severability

If a court of competent jurisdiction finds any part, section or provision of this measure to be unconstitutional, illegal or invalid, that finding affects only that part, section or provision of the measure and the remaining parts, sections or provisions remain in full force and effect.

EXHIBIT 2
Local Implementation Plan

EXHIBIT 3
Metro SHS Work Plan

EXHIBIT 4
Contact Information for Notices

If to Metro:

Metro
Office of the Council President
600 N.E. Grand Avenue.
Portland, Oregon 97232
Email: lynn.peterson@oregonmetro.gov
Phone No.: 503-797-1700

and:

Metro
600 N.E. Grand Avenue.
Portland, Oregon 97232
Attn: Chief Operating Officer
Email: marissa.madrigal@oregonmetro.gov
Phone No.: 503-797-1700

With copies to:

Office of Metro Attorney
Metro
600 N.E. Grand Avenue
Portland, Oregon 97232
Attn: Carrie MacLaren
Email: Carrie.MacLaren@oregonmetro.gov
Phone No.: 503-797-1511

If to Clackamas County:

Clackamas County
Office of the County Chair
2051 Kaen Rd.
Oregon City, Oregon 97045
Email: bcc@clackamas.us
Phone No.: 503-655-8581

and:

Clackamas County
Finance Department
2051 Kaen Rd.
Oregon City, Oregon 97045
Attn: Finance Director
Email: EComfort@clackamas.us
Phone No.: 503-936-5345

With copies to:

County Attorney
2051 Kaen Rd.
Oregon City, Oregon 97045
Attn: Stephen Madkour
Email: smadkour@clackamas.us
Phone No.: 503-742-4623

If to Multnomah County:

Multnomah County
Office of the County Chair
501 N.E. Hawthorne Blvd., Suite 600
Portland, Oregon 97214
Email: mult.chair@multco.us
Phone No.: 503-988-3308

and:

Multnomah County
Finance and Risk Management Division
501 N.E. Hawthorne Blvd.
Portland, Oregon 97214
Attn: Chief Financial Officer
Email: eric.j.arellano@multco.us
Phone No.: 503-988-6229

With copies to:

County Attorney
501 N.E. Hawthorne Blvd.
Portland, Oregon 97214
Attn: Jenny Madkour
Email: jenny.m.madkour@multco.us
Phone No.: 503-988-3138

If to Washington County:

Washington County
Office of the County Chair
155 N First Avenue, Suite 300
Hillsboro, Oregon 97124
Email:
kathryn_harrington@co.washington.or.us
Phone No.: 503-846-8681

and:

Clackamas County
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IN CONSIDERATION OF:

Resolution no. 22-5238, FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO EXECUTE INTERGOVERNMENTAL AGREEMENTS WITH MULTNOMAH, WASHINGTON, AND CLACKAMAS COUNTIES TO IMPLEMENT THE METRO SUPPORTIVE HOUSING SERVICES PROGRAM

Date: December 29, 2021

Department: Planning, Development & Research

Presenter(s) (if applicable): Patricia Rojas, Kristin Dennis and Shane Abma

Meeting Date: January 13, 2022

Length: 30 minutes

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ISSUE STATEMENT

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

This program brings a groundbreaking level of funding and regional coordination between Metro, Clackamas, Washington, Multnomah counties (The Counties) to scale and collectively address this region-wide challenge. In accordance with the supportive housing measure, each of the Metro area's three counties developed a Local Implementation Plan through inclusive engagement with community and local practitioners, including BIPOC communities and hundreds of individuals with lived experience of homelessness. Plans incorporated analyses of local conditions, needs, racial inequities, and included a framework for planned investments and strategies. As required for the counties to receive funding from the regional measure, these plans have been approved by the Metro Council per the recommendation of local advisory bodies, boards of commissioners and the Regional Oversight Committee.

Since the measure's passage, the visibility and impacts of homelessness have increased due in large part to the societal impacts of the COVID-19 global pandemic. Addressing this crisis in our community requires a balanced, compassionate and urgent approach in order to end homelessness for thousands of individuals while simultaneously providing increased and effective options for safety off the streets. Through local implementation plans, the SHS program incorporates a full range of proven strategies to help people experiencing homelessness, including support services such as behavioral health services and case management, a variety of emergency shelter options, with the ultimate goal of permanently ending their homelessness through safe, stable, and supported affordable housing.

Metro Code requires the jurisdictional partners to enter into an IGA with each county partner that details the roles and obligations of each party, the process by which Metro will provide effective oversight over the Supportive Housing Services program and accountability that distributed funds are appropriately and transparently spent in accordance with each County's Local Implementation Plan and annual work plan.

Local Implementation Plans for each county will be incorporated into the respective intergovernmental agreement (IGA), along with agreements concerning other matters of program implementation, transfer of funds, and ongoing oversight, accountability and management.

It is critical for the SHS IGA's to provide a pathway for successful partnership in creating a new regional system that helps prevent homelessness for thousands of individuals while ending chronic homelessness over the next ten years. In order to respond with urgency to community need yet allow the time necessary to complete a ten year agreement, Metro Council directed the COO to execute a Revenue Sharing Agreement on June 29, 2021 that allowed Metro to distribute collected tax revenue to the counties for Supportive Housing Services program implementation starting July 1, 2021. The agreement was amended and extended twice and expires on January 31, 2022.

ACTION REQUESTED

Staff request that Metro Council to take the following formal actions:

- Adopt Resolution 22-5238, authorizing the Chief Operating Officer to execute three separate intergovernmental agreements with Multnomah, Washington and Clackamas Counties

IDENTIFIED POLICY OUTCOMES

Homelessness is an issue of regional concern and requires a regional response grounded in partnership and collaboration with regional partners. By approving Resolution 22-5238, Metro, along with Multnomah, Clackamas and Washington Counties, formally come together in a ten year agreement with a collective vision and path to addressing homelessness and housing instability regionally. In keeping with promises to the public, this IGA establishes clear roles and obligations for Metro and The Counties as well as outlines governance structures, tools and processes that support Metro's role of public oversight and accountability for the success of this program. The agreement includes but is not limited to:

- Metro roles of tax collection, distribution of funds, oversight, accountability, convener

- County responsibilities to develop and execute Local Implementation Plans and demonstrate progress
- Governance structures and processes for transparent oversight and accountability
- Reporting expectations
- Yearly fiscal plans that outline how funds will be invested
- Yearly work-plans that identify programmatic goals per fiscal year
- Corrective measures and processes
- Structures and processes that promote long-term collaboration and problem solving

The execution of these Supportive Housing Services IGAs will help us assure regional implementation is guided by the following principles, which were developed by a stakeholder advisory table and are now incorporated into the SHS Work Plan adopted by Council:

- Strive toward stable housing for all;
- Lead with racial equity and work toward racial justice;
- Fund proven solutions;
- Leverage existing capacity and resources;
- Innovate: evolve systems to improve;
- Demonstrate outcomes and impact with stable housing solutions;
- Ensure transparent oversight and accountability;
- Center people with lived experience, meet them where they are, and support their self-determination and well-being;
- Embrace regionalism: with shared learning and collaboration to support systems coordination and integration; and
- Lift up local experience: lead with the expertise of local agencies and community organizations addressing homelessness and housing insecurity.

IGA's will allow The Counties to move forward with implementation through those principles and progress toward meeting the following goals for the ten-year program:

- Prioritize funding for households experiencing chronic homelessness, especially Communities of Color
- 5,000 households experiencing chronic homelessness connected to permanent supportive housing;
- 10,000 households at risk of or experiencing homelessness stabilized in permanent housing;
- Eliminating racial disparities in access to services and outcomes of supportive housing services programs;
- Reaching a milestone where there are enough supportive housing resources in the region to house more chronically homeless households each month than there are households experiencing chronic homelessness that month (also called functional zero); and

- Creating a regionally-aligned flexible rent assistance program and developing additional strategies to advance regional alignment and coordination via the Tri-County Planning Body.

In the first program year (July 2021-June 2022), The Counties expect to:

1. Expand shelter capacity by at least 900 beds
2. Connect 2,400 people to permanent housing, including:
 - 2(a) 1,300 chronically homeless households to supportive housing
 - 2(b) 1,100 households at risk of or experiencing homelessness to rent assistance and services
3. Prevent 1,000 households from eviction/becoming homeless
4. Grow the network of services providers, especially culturally specific providers
5. Integrate behavioral health services into outreach, shelter and housing programs

STAFF RECOMMENDATIONS

Staff recommends Metro direct the COO to execute the intergovernmental agreements.

STRATEGIC CONTEXT & FRAMING COUNCIL DISCUSSION

With the passage of Measure 26-210, the voters of the Greater Portland region entrusted Metro, Washington, Clackamas and Multnomah Counties to work together in addressing the region's housing and homelessness crisis. This housing crisis, which took decades and a global pandemic to create, will require an unprecedented level of regional collaboration and coordination to address. The Supportive Housing Services program creates the opportunity for coordinated regional investments in proven solutions at a scale that, for the first time in our community, meets the need and collective problem solving to address gaps and maximize opportunities. The most effective and efficient path to addressing the housing crisis will be through leveraging regional strengths.

As a regional government, Metro brings the strength and experience as a regional funder, convener and coordinator for this new program. Metro has a track record of successfully convening, funding and coordinating efforts of regional concern across local governments. The Counties bring decades of experience and established mechanisms for service delivery to populations experiencing homelessness and extreme housing instability. The counties also bring leveraged resources and established relationships with hundreds of non-profits across the region, many of which are culturally specific, and have trusting relationships with the communities across the region this program will serve.

Metro and The Counties have come together and negotiated an intergovernmental agreement that leverages these strengths, provides a pathway for Metro to provide transparent fiscal and programmatic oversight and accountability, and assures the effective implementation of the SHS program.

The SHS IGA reaffirms Metro's roles in oversight and accountability and provides structures, tools and processes to execute that commitment transparently and effectively. The IGA memorializes a governance structure that includes the SHS Regional Oversight Committee (SHSROC) which is charged with assuring public funds are used appropriately and that implementation is consistent with the strategies and values in the Local Implementation Plans as approved by Metro Council.

Counties have established first-year goals and will provide yearly work plans moving forward that establish programmatic goals for that fiscal year that advance LIP goals. Additionally, the IGA requires The Counties to provide yearly spending plans that communicate how each county plans to invest SHS tax revenue to accomplish the goals set in the yearly work plan. The measure requires that counties provide annual reports that demonstrate progress towards goals and use of public funds as stated in LIP's. The IGA establishes an additional requirement of quarterly reports that communicate progress towards yearly goals and fiscal reporting on SHS expenditures. These reports will be reviewed by staff to ensure progress is being made towards yearly goals and mitigate potential issues that may emerge as early as possible. Reports will also be shared with the SHSROC and Metro Council. The IGA establishes Corrective Action Plans as a tool for Metro and county staff that creates a process and timeline for correcting issues as they emerge. Mediation and arbitration are additional tools established in the IGA to help the parties resolve challenges in rare circumstances should they arise.

Partnership among the implementing jurisdictions will be critical to the success of this program. The IGA establishes pathways to cross-jurisdictional collaboration in program implementation. An Executive Committee of staff across the implementing jurisdictions will be formed to regularly collaborate and coordinate program implementation and mitigate issues as they arise. The IGA incorporates the Tri-County Advisory Body to support implementation coordination and alignment at a regional level. The Counties are required to implement and invest in regional strategies consistent with a regional plan developed by that body.

The 10 year SHS IGA creates the foundation for successful program implementation by The Counties and effective oversight and accountability that is transparent to the public.

BACKGROUND

In May 2020, voters approved Measure 26-210 to "prevent and reduce homelessness in Washington, Clackamas and Multnomah counties."¹ The Metro Council has directed that implementation partners must have an approved Local Implementation Plan in order to receive Supportive Housing Services funds. Metro's adopted Supportive Housing Services work plan (Resolution No. 20-1548) further defined Local Implementation Plans' purpose, process of development and review, and required elements, including "local housing and homeless service needs, current programming and unmet programming capacities, and

¹ [Ballot Measure 26-210](#) as it appeared on ballots in the Multnomah County May 2020 Primary

proposed use of funds in accordance with the purposes of the regional Supportive Housing Services Program."

Council's direction established Local Implementation Plans as high-level frameworks that set local priorities and actions based on identified gaps and regional outcomes. Recognizing how systemic racism is reflected in racial disparities in the region's homelessness and housing crisis, the plans were required to be developed through inclusive community engagement that centers the voices of Black, Indigenous and people of color communities as well as people with lived experience of homelessness and housing instability. The plans also commit Local Implementation Partners to be accountable for tracking and reporting on regionally-identified outcomes, particularly racial equity outcomes.

County partners developed their plans between fall 2020 and winter 2021. As required, the plans were developed through inclusive engagement that centered people with lived experience of homelessness and BIPOC communities, were informed by engagement with community and local practitioners, incorporated an analysis of local conditions and needs, and included an equity analysis to create the framework for programmatic strategies and investments.

By spring of 2021 all Local Implementation Plans had been approved locally, by the Supportive Housing Services Regional Oversight Committee and by Metro Council. By July 2021, program funding was made available to county partners and programming officially began.

This program brings a groundbreaking level of regional coordination and scale to address the regionwide challenge of homelessness. The LIP investment strategies create a path for our region to simultaneously address emergent life and safety needs of thousands of people while creating pathways out of homelessness and into permanent housing for thousands more. The plans call for significant expansion of immediate and long-term strategies for safety on and off the streets, including shelter, outreach and housing program expansions.

ATTACHMENTS

- Resolution 22-5238