

Council meeting agenda

Thursday, January 25, 2018

2:00 PM

Metro Regional Center, Council chamber

1. Call to Order and Roll Call

2. Public Communication

3. Consent Agenda

- 3.1 Resolution No. 17-4856, For the Purpose of Adding or Amending Existing Projects to the 2018-21 Metropolitan Transportation Improvement Program Involving Five Projects Requiring Programming Additions, Corrections, or Cancellations Impacting Metro, ODOT, and Portland (NV18-04-NOV) [RES 17-4856](#)

Attachments: [Resolution No. 17-4856](#)
[Exhibit A to Resolution No. 17-4856](#)
[Staff Report](#)

- 3.2 Resolution No. 18-4858, For the Purpose of Adding or Amending Existing Projects to the 2018-21 Metropolitan Transportation Improvement Program Involving Six Projects Requiring Programming Additions or Corrections Impacting Gresham, King City, and ODOT (DEC18-05-DEC) [RES 18-4858](#)

Attachments: [Resolution No. 18-4858](#)
[Exhibit A to Resolution No. 18-4858](#)
[Staff Report](#)
[Attachment 1 to Staff Report](#)

- 3.3 Consideration of the Council Meeting Minutes for January 18, 2018 [18-4959](#)

4. Resolutions

- 4.1 Resolution No. 18-4866, For the Purpose of Adopting an Agenda for the 2018 Oregon Legislative Session [RES 18-4866](#)

Presenter(s): Randy Tucker, Metro

Attachments: [Resolution No. 18-4866](#)
[Exhibit A to Resolution No. 18-4866](#)
[Exhibit B to Resolution No. 18-4866](#)
[Staff Report](#)

- 4.2 Resolution No. 18-4863, For the Purpose of Approving the Policy and Investment Framework for Cycle 6 of the 2040 Planning and Development Grant Program in 2018 [RES 18-4863](#)

Presenter(s): Elissa Gertler, Metro
Lisa Miles, Metro

Attachments: [Resolution No. 18-4863](#)
[Exhibit A to Resolution No. 18-4863](#)
[Staff Report and Attachments](#)

5. Chief Operating Officer Communication

6. Councilor Communication

7. Adjourn

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Metro з повагою ставиться до громадянських прав. Для отримання інформації про програму Metro із захисту громадянських прав або форми скарги про дискримінацію відвідайте сайт www.oregonmetro.gov/civilrights. або Якщо вам потрібен перекладач на зборах, для задоволення вашого запиту зателефонуйте за номером 503-797-1700 з 8.00 до 17.00 у робочі дні за п'ять робочих днів до зборів.

Metro 的不歧視公告

尊重民權。欲瞭解Metro民權計畫的詳情，或獲取歧視投訴表，請瀏覽網站 www.oregonmetro.gov/civilrights。如果您需要口譯方可參加公共會議，請在會議召開前5個營業日撥打503-797-1700（工作日上午8點至下午5點），以便我們滿足您的要求。

Ogeysiiska takooris la'aanta ee Metro

Metro waxay ixtiraamtaa xuquuqda madaniga. Si aad u heshid macluumaad ku saabsan barnaamijka xuquuqda madaniga ee Metro, ama aad u heshid warqadda ka cabashada takoorista, booqo www.oregonmetro.gov/civilrights. Haddii aad u baahan tahay turjubaan si aad uga qaybqaadatid kullanka dadweynaha, wac 503-797-1700 (8 gallinka hore illaa 5 gallinka dambe maalmaha shaqada) shan maalmo shaqo ka hor kullanka si loo tixgaliyo codsashadaada.

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សេចក្តីជូនដំណឹងអំពីការមិនរើសអើងរបស់ Metro

ការគោរពសិទ្ធិពលរដ្ឋរបស់ ។ សំរាប់ព័ត៌មានអំពីកម្មវិធីសិទ្ធិពលរដ្ឋរបស់ Metro ឬស្នើសុំទទួលបានកាតបណ្តឹងរើសអើងសូមចូលទស្សនាគេហទំព័រ www.oregonmetro.gov/civilrights។ បើលោកអ្នកត្រូវការអ្នកបកប្រែភាសានៅពេលអង្គប្រជុំសាធារណៈ សូមទូរស័ព្ទមកលេខ 503-797-1700 (ម៉ោង 8 ព្រឹកដល់ម៉ោង 5 ល្ងាច ថ្ងៃធ្វើការ) ប្រាំពីរថ្ងៃ ថ្ងៃធ្វើការ មុនថ្ងៃប្រជុំដើម្បីអាចឲ្យគេសម្រួលតាមសំណើរបស់លោកអ្នក។

إشعار بعدم التمييز من Metro

تحتزم Metro الحقوق المدنية. للمزيد من المعلومات حول برنامج Metro للحقوق المدنية أو لإيداع شكوى ضد التمييز، يُرجى زيارة الموقع الإلكتروني www.oregonmetro.gov/civilrights. إن كنت بحاجة إلى مساعدة في اللغة، يجب عليك الاتصال مقدماً برقم الهاتف 503-797-1700 (من الساعة 8 صباحاً حتى الساعة 5 مساءً، أيام الاثنين إلى الجمعة) قبل خمسة (5) أيام عمل من موعد الاجتماع.

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Metro txoj kev ntxub ntxaug daim ntawv ceeb toom

Metro tributes cai. Rau cov lus qhia txog Metro txoj cai kev pab, los yog kom sau ib daim ntawv tsis txaus siab, mus saib www.oregonmetro.gov/civilrights. Yog hais tias koj xav tau lus kev pab, hu rau 503-797-1700 (8 teev saww ntxov txog 5 teev tsaus ntuj weekdays) 5 hnub ua hauj lwm ua ntej ntawm lub rooj sib tham.

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Clackamas, Multnomah and Washington counties, and Vancouver, WA Channel 30 – Community Access Network <i>Web site:</i> www.tvctv.org <i>Ph:</i> 503-629-8534 Call or visit web site for program times.	Portland Channel 30 – Portland Community Media <i>Web site:</i> www.pcmtv.org <i>Ph:</i> 503-288-1515 Call or visit web site for program times.
Gresham Channel 30 - MCTV <i>Web site:</i> www.metroeast.org <i>Ph:</i> 503-491-7636 Call or visit web site for program times.	Washington County and West Linn Channel 30– TVC TV <i>Web site:</i> www.tvctv.org <i>Ph:</i> 503-629-8534 Call or visit web site for program times.
Oregon City and Gladstone Channel 28 – Willamette Falls Television <i>Web site:</i> http://www.wftvmedia.org/ <i>Ph:</i> 503-650-0275 Call or visit web site for program times.	

PLEASE NOTE: Show times are tentative and in some cases the entire meeting may not be shown due to length. Call or check your community access station web site to confirm program times. Agenda items may not be considered in the exact order. For questions about the agenda, call the Metro Council Office at 503-797-1540. Public hearings are held on all ordinances second read. Documents for the record must be submitted to the Regional Engagement and Legislative Coordinator to be included in the meeting record. Documents can be submitted by e-mail, fax or mail or in person to the Regional Engagement and Legislative Coordinator. For additional information about testifying before the Metro Council please go to the Metro web site www.oregonmetro.gov and click on public comment opportunities.

Agenda Item No. 3.1

Resolution No. 17-4856, For the Purpose of Adding or Amending Existing Projects to the 2018-21 Metropolitan Transportation Improvement Program Involving Five Projects Requiring Programming Additions, Corrections, or Cancellations Impacting Metro, ODOT, and Portland (NV18-04-NOV)

Consent Agenda

Metro Council Meeting
Thursday, January 25, 2018
Metro Regional Center, Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ADDING OR AMENDING	)	RESOLUTION NO. 17-4856
EXISTING PROJECTS TO THE 2018-21)	
METROPOLITAN TRANSPORTATION	)	Introduced by: "Chief Operating Officer
IMPROVEMENT PROGRAM INVOLVING FIVE	)	Martha Bennett in concurrence with
PROJECTS REQUIRING PROGRAMMING	)	Council President Tom Hughes"
ADDITIONS, CORRECTIONS, OR)	
CANCELLATIONS IMPACTING METRO, ODOT,)	
AND PORTLAND (NV18-04-NOV))	

WHEREAS, the Metropolitan Transportation Improvement Program (MTIP) prioritizes projects from the Regional Transportation Plan (RTP) to receive transportation related funding; and

WHEREAS, the Joint Policy Advisory Committee on Transportation (JPACT) and the Metro Council approved the 2018-21 MTIP via Resolution 17-4817 on July 27, 2017; and

WHEREAS, JPACT and the Metro Council must approve any subsequent amendments to add new projects or substantially modify existing projects in the MTIP; and

WHEREAS, the U.S. Department of Transportation (USDOT) has issued clarified MTIP amendment submission rules and definitions for MTIP formal amendments and administrative modifications that both ODOT and all Oregon MPOs must adhere to which includes that all new projects added to the MTIP must complete the formal amendment process; and

WHEREAS, complications in building and delivering two proposed Compressed Natural Gas (CNG) Fueling Centers resulted in Metro and Portland declining the awarded ODOT Congestion Mitigation Air Quality (CMAQ) improvement funds thereby ending both projects; and

WHEREAS, ODOT will initiate the Preliminary Engineering phase for the I-5 Boone (Willamette River) Bridge project to develop required shelf-ready plans to future deck overlay, joint repairs and seismic retrofit; and

WHEREAS, ODOT will implement two US30BY projects, allowing for improved and needed safety/preservation projects planned for US30BY (Lombard Safety Extension) at milepost 3.50 to North Wilbur that will include signal upgrades, installation of a pedestrian island, and complete identified American Disability Act (ADA) requirements with a second planned project at US30BY/Fenwick; and

WHEREAS, all amended projects were evaluated against six revised MTIP review factors to ensure all requested changes and additions can be accomplished legally through the MTIP amendment process; and

WHEREAS, the MTIP review factors included project eligibility/proof of funding, RTP consistency with the financially constrained element, consistency with RTP goals and strategies, determination of amendment type, inclusion in the Metro transportation regional models, determination of Regional Significance, fiscal constraint verification, and compliance with MPO MTIP federal management responsibilities; and

WHEREAS, the MTIP's financial constraint finding is maintained as all projects proof of funding has been verified; and

WHEREAS, no negative impacts to air conformity will exist as a result of the changes completed through the November 2017 Formal MTIP Amendment; and

WHEREAS, all projects included in the November 2017 Formal MTIP Amendment successfully completed a required 30-day public notification/opportunity to comment period without any significant issues raised; and

WHEREAS, TPAC received their notification and recommended approval on November 17, 2017 and approved the amendment recommendation to JPACT; now therefore

BE IT RESOLVED that the Metro Council hereby adopts the recommendation of JPACT on January 18, 2018 to formally amend the 2018-21 MTIP to include the November 2017 Formal Amendment bundle consisting of five projects.

ADOPTED by the Metro Council this ____ day of _____ 2018.

Tom Hughes, Council President

Approved as to Form:

Alison R. Kean, Metro Attorney

2018-2021 Metropolitan Transportation Improvement Program
Exhibit A to Resolution 17-4856



Proposed November 2017 Formal Amendment Bundle Amendment Type: FORMAL, NV18-04-NOV Total Number of Projects: 5			
Project # ODOT Key	Lead Agency	Project Name	Required Changes
#1 19188	Metro	Metro Central Transfer Station: CNG Fueling	Project canceled from 2018 MTIP: The project will not move forward and be constructed as planned. It is being removed from the 2018 MTIP through this amendment
#2 21218 New	ODOT	I-5: Boone (Willamette River) Bridge	Adds only the PE phase to this bridge rehab project to the 2018 MTIP
#3 20413	ODOT	US30BY (Lombard) Safety Extension	Cost increase: Adds needed funding to the PE and ROW phases to address the phase funding shortage
#4 20415	ODOT	US30BY (Lombard) at Fenwick	Project requires a cost increase to address additional ADA compliance requirements and potentially will be combined into Key 20413 above. Key 20415 will be canceled assuming combination does occur. Otherwise Key 20415 will be removed as part of the November 2017 Amendment Bundle.
#5 19552	Portland	Clean Energy Public Access CNG Station (Portland)	Cancel project officially from 2018 MTIP and 2018 STIP. CMAQ funding declined. Project will not move forward.

Exhibit A to Resolution 17-4856

2018-2021 Metropolitan Transportation Improvement Program Chapter 5 Tables Amendment

Action: Amend the MTIP to increase or adjust required funding and add new projects for the following projects



PROJECT #1 EXISTING MTIP PROGRAMMING									
ODOT Key	MTIP ID	Lead Agency	Project Name					Project Type	Project Cost
19188	70815	Metro	Metro Central Transfer Station: CNG Fueling					Other	\$ 1,853,547
Project Description:			Construct a Compressed Natural Gas fueling station to dispense renewable natural gas						
Existing MTIP Project Fund Programming by Phase									
Fund Code	Note	Type	Year	Planning	Preliminary Engineering	Right of Wav	Construction	Other	Total
CMAQ-State	M400	Federal	2017					\$ 891,381	\$ 891,381
Local	Match	Match	2017					\$ 102,023	\$ 102,023
Other	OTH0	Local	2017					\$ 860,143	\$ 860,143
Total:				\$ -	\$ -	\$ -	\$ -	\$ 1,853,547	\$ 1,853,547

PROJECT #1 PROPOSED AMENDED CHANGES									
ODOT Key	MTIP ID	Lead Agency	Project Name					Project Type	Project Cost
19188	70815	Metro	Metro Central Transfer Station: CNG Fueling					Other	\$ -
Project Description:			Construct a Compressed Natural Gas fueling station to dispense renewable natural gas						
Amended MTIP Fund Programming by Phase									
Fund Code	Note	Type	Year	Planning	Preliminary Engineering	Right of Way	Construction	Other	Total
CMAQ-State	M400	Federal	2017					\$ -	\$ -
Local	Match	Match	2017					\$ -	\$ -
Other	OTH0	Local	2017					\$ -	\$ -
Total:			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Notes:	1. Red Font = Funding reductions made to the project phase. Blue font = Additions made to the project as part of the amendment.								
	2. CMAQ-State = Federal Congestion Mitigation Air Quality (CMAQ) improvement funds that ODOT allocates and manages								
	3. Local = General local funds the lead agency provides for the required match to the federal funds								
	4. Other = Additional local funds the lead agency commits to the project above the required match. Also called "overmatch"								
Amendment Summary									
Project will not proceed and be constructed. The amendment officially cancels the project from the 2018 MTIP.									

Exhibit A to Resolution 17-4856

2018-2021 Metropolitan Transportation Improvement Program Chapter 5 Tables Amendment

Action: Amend the MTIP to increase or adjust required funding and add new projects for the following projects



PROJECT #2 EXISTING MTIP PROGRAMMING - None **New Project**

PROJECT #2 PROPOSED AMENDED CHANGES									
ODOT Key	MTIP ID	Lead Agency	Project Name					Project Type	Project Cost
21218	TBD	ODOT	I-5: Boone (Willamette River) Bridge					Highway	\$ 250,000
Project Description:			On I-5 in Wilsonville at the Boone Bridge over the Willamette River, prepare shelf ready plans for future deck overlay, joint repairs and seismic retrofit.						
Amended MTIP Fund Programming by Phase									
Fund Code	Note	Type	Year	Planning	Preliminary Engineering	Right of Wav	Other (Utility Relocation)	Construction	Total
NHPP-FAST	Z001	Federal	2018		\$ 230,550				\$ 230,550
State	Match	State	2018		\$ 19,450				\$ 19,450
Total:			\$ -	\$ 250,000	\$ -	\$ -	\$ -	\$ 250,000	
Notes:	1. Red Font = Funding reductions made to the project phase. Blue font = Additions made to the project as part of the amendment.								
	2. NHPP-FAST = Federal National Highway Performance Program (FAST Act allocation) funding								
	3. State = ODOT state funds added to the project phase as their required match to the federal fund type ADVCON.								

Amendment Summary

Through this amendment, the PE phase is added to the 2018 MTIP. The implementation phases (ROW if needed and construction) will be added later. Project will focus on pre-NEPA project development

Exhibit A to Resolution 17-4856

2018-2021 Metropolitan Transportation Improvement Program Chapter 5 Tables Amendment

Action: Amend the MTIP to increase or adjust required funding and add new projects for the following projects



PROJECT #3 EXISTING MTIP PROGRAMMING									
ODOT Key	MTIP ID	Lead Agency	Project Name					Project Type	Project Cost
20413	70969	ODOT	US30BY (Lombard) Safety Extension					Roadway and Bridge	\$ 6,432,038
Project Description:			Road diet between MP 3.50 and N Wilbur. Signal upgrades at Fiske; Woolsey; Chautauqua; Wabash; Peninsular; and Greeley. Remove half signal at Drummond. Install RRFB with pedestrian island near Drummond. ADA improvements and access management as needed.						
Existing MTIP Project Fund Programming by Phase									
Fund Code	Note	Type	Year	Planning	Preliminary Engineering	Right of Way	Other (Utility Relocation)	Construction	Total
HISP	ZS30	Federal	2018		\$ 441,400				\$ 441,400
STBG-State	Z240	Federal	2018		\$ 1,023,905				\$ 1,023,905
State	Match	State	2018		\$ 117,191				\$ 117,191
STBG-State	Z240	Federal	2018			\$ 111,612			\$ 111,612
State	Match	State	2018			\$ 12,774			\$ 12,774
HSIP (100%)	ZS30	Federal	2018			\$ 76,000			\$ 76,000
HSIP (100%)	ZS30	Federal	2019				\$ 10,000		\$ 10,000
STBG-State	Z240	Federal	2019				\$ 8,928		\$ 8,928
State	Match	Federal	2019				\$ 1,022		\$ 1,022
HSIP (100%)	ZS30	Federal	2020					\$ 1,297,500	\$ 1,297,500
STBG-State	Z240	Federal	2020					\$ 2,989,540	\$ 2,989,540
State	Match	Federal	2020					\$ 342,166	\$ 342,166
Total:			\$ -	\$ 1,582,496	\$ 200,386	\$ 19,950	\$ 4,629,206	\$ 6,432,038	
Notes:	1. Red Font = Funding reductions made to the project phase. Blue font = Additions made to the project as part of the amendment.								
	2. STBG-State = Federal Surface Transportation Block Grant funds allocated out of the FAST Act and directly to ODOT. Formerly referred to as Surface Transportation Program (STP) funds. Same fund type and eligibility, but different name under the FAST Act.								
	3. HSIP = Federal Highway Safety Improvement Program funding allocated to ODOT for system safety improvements. The 100% reference means the federal fund share is 100% and no local or state match is required.								
	4. State = Generic state funds provided as the required match to the federal funds.								

Amendment Summary

Proposed amended changes are stated on the next page

PROJECT #3 PROPOSED AMENDED CHANGES									
ODOT Key	MTIP ID	Lead Agency	Project Name					Project Type	Project Cost
20413	70969	ODOT	US30BY (Lombard) Safety Extension					Roadway and Bridge	\$ 8,377,038
Project Description:			Road diet between MP 3.50 and N Wilbur. Signal upgrades at Fiske; Woolsey; Chautauqua; Wabash; Peninsular; and Greeley. Remove half signal at Drummond. Install RRFB with pedestrian island near Drummond. ADA improvements and access management as needed.						
Amended MTIP Fund Programming by Phase									
Fund Code	Note	Type	Year	Planning	Preliminary Engineering	Right of Wav	Other (Utility Relocation)	Construction	Total
HSIP (100%)	ZS30	Federal	2018		\$ 1,582,496				\$ 1,582,496
STBG-State	Z240	Federal	2018		\$ 652,337				\$ 652,337
State	Match	State	2018		\$ 74,663				\$ 74,663
STBG-State	Z240	Federal	2018			\$ 1,204,523			\$ 1,204,523
State	Match	State	2018			\$ 137,863			\$ 137,863
HSIP (100%)	ZS30	Federal	2018			\$ 76,000			\$ 76,000
HSIP (100%)	ZS30	Federal	2019				\$ 10,000		\$ 10,000
NHPP-FAST	Z001	Federal	2019				\$ 8,928		\$ 8,928
State	Match	State	2019				\$ 1,022		\$ 1,022
NHPP (100%)	M001	Federal	2020					\$ 1,297,500	\$ 1,297,500
NHPP-FAST	Z001	Federal	2020					\$ 2,989,540	\$ 2,989,540
State	Match	State	2020					\$ 342,166	\$ 342,166
Total:			\$ -	\$ 2,309,496	\$ 1,418,386	\$ 19,950	\$ 4,629,206	\$ 8,377,038	
Notes:	1. Red Font = Funding reductions made to the project phase. Blue font = Additions made to the project as part of the amendment.								
	2. STBG-State = Federal Surface Transportation Block Grant funds allocated out of the FAST Act and directly to ODOT. Formerly referred to as Surface Transportation Program (STP) funds. Same fund type and eligibility, but different name under the FAST Act.								
	3. HSIP = Federal Highway Safety Improvement Program funding allocated to ODOT for system safety improvements. The 100% reference means the federal fund share is 100% and no local or state match is required.								
	4. State = Generic state funds provided as the required match to the federal funds.								

Amendment Summary

Through this amendment, additional needed funding is being programmed for PE and ROW as Key 20413 and Key 20415 are being combined into a single project

Exhibit A to Resolution 17-4856

2018-2021 Metropolitan Transportation Improvement Program Chapter 5 Tables Amendment

Action: Amend the MTIP to increase or adjust required funding and add new projects for the following projects



PROJECT #4 EXISTING MTIP PROGRAMMING									
ODOT Key	MTIP ID	Lead Agency	Project Name					Project Type	Project Cost
20415	70971	ODOT	US30BY (Lombard) at Fenwick					Roadway and Bridge	\$ 1,217,896
Project Description:			Full signal upgrade; ADA improvements; and access management						
Existing MTIP Project Fund Programming by Phase									
Fund Code	Note	Type	Year	Planning	Preliminary Engineering	Right of Way	Other (Utility Relocation)	Construction	Total
STBG-State	Z240	Federal	2018		\$ 264,804				\$ 264,804
State	Match	State	2018		\$ 30,308				\$ 30,308
STBG-State	Z240	Federal	2019			\$ 66,966			\$ 66,966
State	Match	State	2019			\$ 7,665			\$ 7,665
STBG-State	Z240	Federal	2019				\$ 4,464		\$ 4,464
State	Match	State	2019				\$ 511		\$ 511
STBG-State	Z240	Federal	2020					\$ 756,584	\$ 756,584
State	Match	State	2020					\$ 86,594	\$ 86,594
Total:				\$ -	\$ 295,112	\$ 74,631	\$ 4,975	\$ 843,178	\$ 1,217,896
Notes:	1. Red Font = Funding reductions made to the project phase. Blue font = Additions made to the project as part of the amendment.								
	2. STBG-State = Federal Surface Transportation Block Grant funds allocated out of the FAST Act and directly to ODOT. Formerly referred to as Surface Transportation Program (STP) funds. Same fund type and eligibility, but different name under the FAST Act.								
	3. State = Generic state funds provided as the required match to the federal funds.								

Amendment Summary

Proposed changes are stated on the next page

PROJECT #54 PROPOSED AMENDED CHANGES									
ODOT Key	MTIP ID	Lead Agency	Project Name					Project Type	Project Cost
20415	70971	ODOT	US30BY (Lombard) at Fenwick					Roadway and Bridge	\$ -
Project Description:			Full signal upgrade; ADA improvements; and access management.						
Amended MTIP Fund Programming by Phase									
Fund Code	Note	Type	Year	Planning	Preliminary Engineering	Right of Way	Construction	Other	Total
STBG-State	Z240	Federal	2018		\$ -				\$ -
State	Match	State	2018		\$ -				\$ -
STBG-State	Z240	Federal	2019			\$ -			\$ -
State	Match	State	2019			\$ -			\$ -
STBG-State	Z240	Federal	2019				\$ -		\$ -
State	Match	State	2019				\$ -		\$ -
STBG-State	Z240	Federal	2020					\$ -	\$ -
State	Match	State	2020					\$ -	\$ -
Total:			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Notes:	1. Red Font = Funding reductions made to the project phase. Blue font = Additions made to the project as part of the amendment.								
	2. NHPP = Federal National Highway Performance Program funds, state managed federal funds								
	3. State = Generic state funds provided as the required match to the federal funds which for this project is 10.27%								
	4. ADVCON = Advance Construction. A generic federal fund code used as a placeholder to identify future federal funds that will be committed to the project. Federal share = 89.73% with the required match set at 10.27%								

Amendment Summary	
Through this amendment, the project funding is being transferred and combined into Key 201413 also part of this amendment bundle. Key 201415 is then canceled from the 2018 MTIP.	

Exhibit A to Resolution 17-4856

2018-2021 Metropolitan Transportation Improvement Program Chapter 5 Tables Amendment

Action: Amend the MTIP to increase or adjust required funding and add new projects for the following projects



PROJECT #5 EXISTING MTIP PROGRAMMING									
ODOT Key	MTIP ID	Lead Agency	Project Name					Project Type	Project Cost
19552	70825	Portland	Clean Energy Public Access CNG Station (Portland)					Other	\$ 1,504,500
Project Description:		Construct a Compressed Natural Gas fueling station							
Existing MTIP Project Fund Programming by Phase									
Fund Code	Note	Type	Year	Planning	Preliminary	Right	Construction	Other	Total
CMAQ-State		Federal	2015					\$ 531,020	\$ 531,020
Local	Match	Local	2015					\$ 60,778	\$ 60,778
Other	Overmatch	Local	2015					\$ 912,702	\$ 912,702
Total:				\$ -	\$ -	\$ -	\$ -	\$ 1,504,500	\$ 1,504,500

PROJECT #5 PROPOSED AMENDED CHANGES									
ODOT	MTIP	Lead	Project Name					Project	Project
19552	70825	Portland	Clean Energy Public Access CNG Station (Portland)					Other	\$ -
Project Description:		Construct a Compressed Natural Gas fueling station							
Amended MTIP Fund Programming by Phase									
Fund Code	Note	Type	Year	Planning	Preliminary	Right	Construction	Other	Total
CMAQ State		Federal	2015					\$ -	\$ -
Local	Match	Local	2015					\$ -	\$ -
Other	Overmatch	Local	2015					\$ -	\$ -
									\$ -
Total:			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Notes:	1. Red Font = Funding reductions made to the project phase. Blue font = Additions made to the project as part of the amendment.								
	2. CMAQ-State = Federal Congestion Mitigation Air Quality (CMAQ) improvement funds that ODOT allocates and manages								
	3. Local = General local funds the lead agency provides for the required match to the federal funds								
	4. Other = Additional local funds the lead agency commits to the project above the required match. Also called "overmatch"								

Amendment Summary

The awarded CMAQ funding for the project was declined which essentially kills the project. It is now being formally removed from the 2018 MTIP and 2018 STIP through this amendment

Date: Thursday, January 18, 2017
To: Metro Council and Interested Parties
From: Ken Lobeck, Funding Programs Lead, 503-797-1785
Subject: November 2017 MTIP Formal Amendment plus Approval Request of Resolution 17-4856

STAFF REPORT

FOR THE PURPOSE OF ADDING OR AMENDING EXISTING PROJECTS TO THE 2018-21 METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM INVOLVING FIVE PROJECTS REQUIRING PROGRAMMING ADDITIONS, CORRECTIONS, OR CANCELLATIONS IMPACTING METRO, ODOT, AND PORTLAND (NV18-04-NOV)

BACKGROUND

What this is:

The November 2017 Formal MTIP Amendment bundle contains required changes and updates impacting Metro, ODOT, and Portland. With the programming actions completed for the HB2017 awarded projects completed, and the mandated clean-up/reconciliation of the 2018 MTIP and STIP essentially completed, the November 2017 Formal Amendment to the 2018 MTIP returns the programming emphasis to usual types of project changes or additions. However, there still will be continued clean-up actions as indicated by a couple of project cancellations in the November 2017 Formal amendment. The summary of projects included in the November 2017 Formal MTIP Amendment bundle is listed below:

2018-2021 Metropolitan Transportation Improvement Program Exhibit A to Resolution 17-4856			
			
Proposed November 2017 Formal Amendment Bundle Amendment Type: FORMAL, NV18-04-NOV Total Number of Projects: 5			
Project # ODOT Key	Lead Agency	Project Name	Required Changes
#1 19188	Metro	Metro Central Transfer Station: CNG Fueling	Project canceled from 2018 MTIP: The project will not move forward and be constructed as planned. It is being removed from the 2018 MTIP through this amendment
#2 21218 New	ODOT	I-5: Boone (Willamette River) Bridge	Adds only the PE phase to this bridge rehab project to the 2018 MTIP
#3 20413	ODOT	US30BY (Lombard) Safety Extension	Cost increase: Adds needed funding to the PE and ROW phases to address the phase funding shortage
#4 20415	ODOT	US30BY (Lombard) at Fenwick	Project requires a cost increase to address additional ADA compliance requirements and potentially will be combined into Key 20413 above. Key 20415 will be canceled assuming combination does occur. Otherwise Key 20415 will be removed as part of the November 2017 Amendment Bundle.
#5 19552	Portland	Clean Energy Public Access CNG Station (Portland)	Cancel project officially from 2018 MTIP and 2018 STIP. CMAQ funding declined. Project will not move forward.

What is the requested action?

TPAC requests JPACT approval and an approval recommendation of resolution 17-4856 to Metro Council enabling the five identified projects to be added, canceled, or amendment correctly into the 2018 MTIP and allowing final approval to then occur from USDOT.

1. Project: Metro Central Transfer Station: CNG Fueling	
Lead Agency:	Metro
ODOT Key Number:	19188
Project Description:	The project proposed to construct a Compressed Natural Gas fueling station to dispense renewable natural gas
What is changing?	Metro decided not to accept the State CMAQ funding and move forward with the project. The project was not carried over from the 2015 MTIP and STIP into the 2018 MTIP and STIP. This amendment officially deletes the project from the 2018 MTIP and STIP
Additional Details:	
Why a Formal amendment is required?	Per the FHWA STIP and MTIP amendment matrix, adding or cancelling a federally funded, and regionally significant project to the STIP and state funded projects which will potentially be federalized requires a full/formal amendment to be completed to add the project to the MTIP.
Total Programmed Amount:	The project programming decreases from \$1,853,547 to \$0
Added Notes:	Metro's decision to stop the project occurred during summer. The amendment is a technical "clean-up" for auditing purposes

2. Project: I-5: Boone (Willamette River) Bridge	
Lead Agency:	ODOT
ODOT Key Number:	21218
Project Description:	On I-5 in Wilsonville at the Boone Bridge over the Willamette River, prepare shelf ready plans for future deck overlay, joint repairs and seismic retrofit.
What is Changing?	Through this amendment, the Preliminary Engineering phase and funding is being added to the 2018 MTIP
Additional Details:	
Why a Formal amendment?	Per the FHWA/FTA/ODOT/MPO Amendment Matrix, adding or cancelling a federally funded, and regionally significant project to the STIP and state funded projects which will potentially be federalized requires a full/formal amendment to be completed to add the project to the MTIP.
Total Programmed Amount:	The total programmed amount for the PE phase will be \$250,000. The estimated total project cost was not identified.
Other and Notes:	

3. Project: US30BY (Lombard) Safety Extension	
Lead Agency:	ODOT
ODOT Key Number:	20413
Project Description:	Road diet between MP 3.50 and N Wilbur. Signal upgrades at Fiske; Woolsey; Chautauqua; Wabash; Peninsular; and Greeley. Remove half signal at Drummond. Install RRFB with pedestrian island near Drummond. ADA improvements and access management as needed.
What is Changing?	Through this amendment, additional needed funding is being programmed for PE and ROW to address ADA compliance requirements. Key 20413 and Key 20415 are planned to be combined into a single project. It's possible this could change. However, until a later decision reverses the planned combination between Key 20413 and 20415, the programming approach is to proceed with the assumption that the project combination will occur.
Additional Details:	Assuming the Key 20415 is combined into 20413, Key 20415 will be canceled from

	the MTIP
Why a Formal amendment?	The cost increase as a result of the combination into Key 20413 exceeds the 20% threshold. The subsequent cancelation of Key 20415 after it is combined into 20413 also requires a formal amendment.
Total Programmed Amount:	Key 20413 increases funding from \$6,432,038 to \$8,377,038
Other and Notes:	

4. Project:	US30BY (Lombard) at Fenwick
Lead Agency:	ODOT
ODOT Key Number:	20415
Project Description:	Full signal upgrade; ADA improvements; and access management
What is Changing?	Project is being combined into Key 20413. As a result, Key 20415 will be canceled from the 2018 MTIP
Additional Details:	
Why a Formal amendment?	Per the FHWA/FTA/ODOT/MPO Amendment Matrix, adding or cancelling a federally funded, and regionally significant project to the STIP and state funded projects which will potentially be federalized requires a full/formal amendment to be completed to add the project to the MTIP.
Total Programmed Amount:	Total programming for Key 20415 decreases from \$1,217,896 to \$0
Other and Notes:	OTC HB2017 project approval at their September 22, 2017 meeting

5. Project:	Clean Energy Public Access CNG Station (Portland)
Lead Agency:	Portland
ODOT Key Number:	70825
Project Description:	Construct a Compressed Natural Gas fueling station
What is Changing?	Portland declined the State CMAQ awarded to the project which effectively kills the project.
Additional Details:	Project is now officially being canceled from the 2018 MTIP
Why a Formal amendment?	Per the FHWA/FTA/ODOT/MPO Amendment Matrix, adding or cancelling a federally funded, and regionally significant project to the STIP and state funded projects which will potentially be federalized requires a full/formal amendment to be completed to add the project to the MTIP.
Total Programmed Amount:	Total programming decreases from \$1,504,500 to \$0.
Other and Notes:	

METRO REQUIRED PROJECT AMENDMENT REVIEWS

In accordance with 23 CFR 450.316-328, Metro is responsible for reviewing and ensuring MTIP amendments comply with all federal programming requirements. Each project and their requested changes are evaluated against multiple MTIP programming review factors that originate from 23 CFR 450.316-328. The programming factors include:

- Verification as required to programmed in the MTIP:
 - Awarded federal funds
 - Regionally significant project
 - Identified on and impacts Metro transportation modeling networks
 - Requires any sort of federal approvals
- Passes fiscal constraint verification:
 - Project eligibility for the use of the funds
 - Proof and verification of funding commitment

- Requires the MPO to establish a documented process proving MTIP programming does not exceed the allocated funding for each year of the four year MTIP and for all funds identified in the MTIP.
- Passes RTP consistency review:
 - Identified in the current approved constrained RTP either as a stand- alone project or in an approved project grouping bucket
 - RTP project cost consistent with requested programming amount in the MTIP
 - If a capacity enhancing projects – is identified in the approved Metro modeling network
- Satisfies RTP goals and strategies consistency: Meets one or more goals or strategies identified in the current RTP
- Determined the project is eligible to be added to the MTIP, or can be legally amended as required without violating provisions of 23 CFR450.300-338 either as a formal Amendment or administrative modification:
 - Supplemental directive guidance from FHWA/FTA’s approved Amendment Matrix
 - Provides conditions and limitation for completing technical corrections, administrative modifications, or formal amendments in the MTIP
 - Guidance: Adding or cancelling a federally funded and regionally significant project to the STIP and state funded projects which will potentially be federalized.
 - Special programming exceptions periodically negotiated with USDOT as well.
- MPO responsibilities completion:
 - Completion of the required 30 day Public Notification period:
 - Project monitoring and expenditure of allocated funds
 - Acting on behalf of USDOT to provide the required forum and complete necessary discussions of proposed transportation improvements/strategies throughout the MPO.

APPROVAL STEPS AND TIMING

Metro’s approval process for formal amendment includes multiple steps. The required approvals for the November 2017 Formal MTIP amendment will include the following:

<u>Action</u>	<u>Target Date</u>
TPAC notification and approval recommendation.....	November 17, 2017
Initiate the required 30-day public notification process.....	November 20, 2017
Completion of public notification process.....	December 19, 2017
JPACT approval and recommendation to Council.....	January 18, 2017
Metro Council approval.....	January 25, 2018*

Note: The January Metro Council date is an estimate only at this time.

USDOT Approval Steps:

<u>Action</u>	<u>Target Date</u>
Metro development of amendment narrative package	January 19 , 2018
Amendment bundle submission to ODOT and USDOT.....	January 22, 2018
ODOT clarification and approval.....	Mid February, 2018
USDOT clarification and final amendment approval.....	Mid February 2018

ANALYSIS/INFORMATION

1. **Known Opposition:** None known at this time.
2. **Legal Antecedents:** Amends the 2018-2021 Metropolitan Transportation Improvement Program adopted by Metro Council Resolution 17-4817 on July 27, 2017 (For The Purpose

of Adopting the Metropolitan Transportation Improvement Program for the Portland Metropolitan Area).

3. **Anticipated Effects:** Enables the projects to obligate and expend awarded federal funds.
4. **Metro Budget Impacts:** None to Metro

RECOMMENDED ACTION:

JPACT recommends the approval of Resolution 17-4856.

(TPAC approval recommendation on Friday, November 17, 2017)

(JPACT approval recommendation on Thursday, January, 18, 2018)

Agenda Item No. 3.2

Resolution No. 18-4858, For the Purpose of Adding
or Amending Existing Projects

Consent Agenda

Metro Council Meeting
Thursday, January 25, 2018
Metro Regional Center, Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ADDING OR AMENDING	)	RESOLUTION NO. 18-4858
EXISTING PROJECTS TO THE 2018-21)	
METROPOLITAN TRANSPORTATION	)	Introduced by: “Chief Operating Officer
IMPROVEMENT PROGRAM INVOLVING SIX	)	Martha Bennett in concurrence with
PROJECTS REQUIRING PROGRAMMING	)	Council President Tom Hughes”
ADDITIONS, OR CORRECTIONS IMPACTING)	
GRESHAM, KING CITY, AND ODOT (DE18-05-)	
DEC))	

WHEREAS, the Metropolitan Transportation Improvement Program (MTIP) prioritizes projects from the Regional Transportation Plan (RTP) to receive transportation related funding; and

WHEREAS, the Joint Policy Advisory Committee on Transportation (JPACT) and the Metro Council approved the 2018-21 MTIP via Resolution 17-4817 on July 27, 2017; and

WHEREAS, JPACT and the Metro Council must approve any subsequent amendments to add new projects or substantially modify existing projects in the MTIP; and

WHEREAS, the U.S. Department of Transportation (USDOT) has issued clarified MTIP amendment submission rules and definitions for MTIP formal amendments and administrative modifications that both ODOT and all Oregon MPOs must adhere to which includes that all new projects added to the MTIP must complete the formal amendment process; and

WHEREAS, updated construction phase cost estimates revealed that the Gresham East Metro Connections ITS project requires additional funding in the amount of \$555,000 to cover required overhead and project contingency needs which are being addressed through this amendment; and

WHEREAS, cost increases to King City’s “OR99W: Beef Bend Rd to SW Durham Rd” sidewalk installation project required the project to be re-scoped and adjust the project limits to keep the project within the available project budget limits resulting in a sidewalk gap-fill project with a name and limits change to be “OR99W: SW Royalty Parkway to SW Durham Rd (King City)”; and

WHEREAS, ODOT identified \$940,000 of obligated right-of-way, but unexpended project funding was available from their “OR21/224 Sunrise Corridor: 122nd Ave to 172nd Ave” project of which \$330,000 will be applied to Preliminary Engineering (PE) phase needs in their “OR224: (Milwaukie Expressway – SE Rusk Rd to I-205” project and \$910,000 will be applied for PE needs to their “I-205: OR224 (Sunrise Expressway) to Sunnybrook Blvd)” project; and

WHEREAS, project budget constraints required ODOT’s OR99E Rockfall mitigation project to reduce its project limits to be Oregon City Tunnel to Old Canemah Park with an existing scope to inspect and repair existing mesh, scale slop behind mesh removing loose rock vegetation, address rock bolting as needed and clear the catchment/roadside ditch area; and

WHEREAS, all amended projects were evaluated against six revised MTIP review factors to ensure all requested changes and additions can be accomplished legally through the MTIP amendment process; and

WHEREAS, the MTIP review factors included project eligibility/proof of funding, RTP consistency with the financially constrained element, consistency with RTP goals and strategies, determination of amendment type, inclusion in the Metro transportation regional models, determination of Regional Significance, fiscal constraint verification, and compliance with MPO MTIP federal management responsibilities; and

WHEREAS, the MTIP's financial constraint finding is maintained as all projects proof of funding has been verified; and

WHEREAS, no negative impacts to air conformity will exist as a result of the changes completed through the December 2017 Formal MTIP Amendment; and

WHEREAS, all projects included in the December 2017 Formal MTIP Amendment successfully completed a required 30-day public notification/opportunity to comment period without any significant issues raised; and

WHEREAS, TPAC received their notification and recommended approval on December 15, 2017 and approved the amendment recommendation to JPACT; now therefore

BE IT RESOLVED that the Metro Council hereby adopts the recommendation of JPACT on January 18, 2018 to formally amend the 2018-21 MTIP to include the December 2017 Formal Amendment bundle consisting of six projects.

ADOPTED by the Metro Council this ____ day of _____ 2018.

Tom Hughes, Council President

Approved as to Form:

Alison R. Kean, Metro Attorney

2018-2021 Metropolitan Transportation Improvement Program
Exhibit A to Resolution **18-4858**



Proposed December 2017 Formal Amendment Bundle Amendment Type: FORMAL, DE18-05-DEC Total Number of Projects: 6			
ODOT Key	Lead Agency	Project Name	Required Changes
#1 18306	Gresham	East Metro Connections ITS	Add \$610,000 of agency local funds to the construction phase to address a revised construction phase cost increase and adding funds in support of the Other phase needs.
#2 18807	King City	OR99EW: SW Beef Bend Rd - SW Durham Rd (King City) OR99W: SW Royalty Parkway - SW Durham Rd (King City)	Changing name, reducing scope to include only one sidewalk infill, reduce ROW funding, reduce the construction phase funding (from the reduced scope), and moving the savings back to PE
#3 19719	ODOT	OR212/224 Sunrise Corridor: 122nde Ave - 172nd Ave	Splitting unexpended funding from this project from the 2015 MTIP and STIP project to two projects being re-added to the 2018 MTIP and STIP with the following changes: Splitting existing unexpended funding with \$330k committed to Key 19720 and \$910k committed to Key 19721. Reduced obligated funding in Key 19719 decreases key 19719 to \$3,400,000. Key 19719 remains as a prior obligated project and will not show up as a active project
#4 19720 New	ODOT	OR224 (Milwaukie Expressway): SE Rusk Rd - I-205	Re-adding project to the 2018 MTIP enabling PE phase to be increased
#5 19721 New	ODOT	I-205: OR224 (Sunrise Expressway) - Sunnybrook Blvd	Splitting \$990k from Key 19719 and adding it to Key 19721 for additional PE phase requirements
#6 18769	ODOT	OR99E: Rockfall Mitigation MP 12.62 - MP14.06 OR99E: Rockfall - Oregon City Tunnel to Old Canemah Park	Changing project limits greater than 0.25 miles total and adjusting project name and description per updated scope

Exhibit A to Resolution 18-4858

2018-2021 Metropolitan Transportation Improvement Program Chapter 5 Tables Amendment

Action: Amend the MTIP to increase or adjust required funding and add new projects for the following projects



PROJECT #1 EXISTING MTIP PROGRAMMING									
ODOT Key	MTIP ID	Lead Agency	Project Name					Project Type	Project Cost
18306	70609	Gresham	East Metro Connections ITS					Local Road	\$ 1,075,000
Project Description:			Update traffic signal hardware and communications. Install changeable message sign.						
Existing MTIP Project Fund Programming by Phase									
Fund Code	Note	Type	Year	Planning	Preliminary Engineering	Right of Wav	Construction	Other (ConOps & Svs Test)	Total
CMAQ-State	Z400	Federal	2015		\$ 179,460				\$ 179,460
Local	Match	Local	2015		\$ 20,540				\$ 20,540
NHS	Q050	Federal	2015		\$ 118,594				\$ 118,594
Local	Match	Local	2015		\$ 13,574				\$ 13,574
State STP-FLX	M24E	Federal	2015		\$ 20,487				\$ 20,487
Local	Match	Local	2015		\$ 2,345				\$ 2,345
ADVCON	ACP0	Federal	2018				\$ 464,161		\$ 464,161
Local	Match	Local	2018				\$ 53,125		\$ 53,125
Other	Overmatch	Local	2018				\$ 127,714		\$ 127,714
CMAQ-State	Z400	Federal	2018					\$ 67,298	\$ 67,298
Local	Match	Local	2018					\$ 7,702	\$ 7,702
Total:				\$ -	\$ 355,000	\$ -	\$ 645,000	\$ 75,000	\$ 1,075,000
Notes:	1. Red Font = Funding reductions made to the project phase. Blue font = Additions made to the project as part of the amendment.								
	2. Funding programmed in years before 2018 are considered prior obligated and will be shown in the prior obligated total for the project in the 2018 MTIP. They are shown above in their programming years in the shaded fields.								
	3. CMAQ-State = federal Congestion Mitigation Air Quality improvement funds with the allocation now managed by ODOT								
	4. NHS = Federal National Highway System funds allocated to and managed by ODOT								
	5. State STP-FLX = Federal Surface Transportation Program (Flex) allocated and managed by ODOT								
	6. Local = local funds the lead agency commits to the project as part of the required match to the awarded federal funds.								
	7. ADVCON = State Advance Construction funds used as a placeholder for a specific future federal fund code to be assigned to the project								
<div>Amendment Summary</div> <div>Above reflects current pre-amendment project programming. Proposed amended changes are stated on the next page</div>									

PROJECT #1 PROPOSED AMENDED CHANGES									
ODOT Key	MTIP ID	Lead Agency	Project Name					Project Type	Project Cost
18306	70609	Gresham	East Metro Connections ITS					Local Road	\$ 1,685,000
Project Description:			Update traffic signal hardware and communications. Install changeable message sign.						
Amended MTIP Fund Programming by Phase									
Fund Code	Note	Type	Year	Planning	Preliminary Engineering	Right of Wav	Construction	Other	Total
CMAQ-State	Z400	Federal	2015		\$ 179,460				\$ 179,460
Local	Match	Local	2015		\$ 20,540				\$ 20,540
NHS	Q050	Federal	2015		\$ 118,594				\$ 118,594
Local	Match	Local	2015		\$ 13,574				\$ 13,574
State STP-FLX	M24E	Federal	2015		\$ 20,487				\$ 20,487
Local	Match	Local	2015		\$ 2,345				\$ 2,345
ADVCON	ACP0	Federal	2018				\$ 464,161		\$ 464,161
Local	Match	Local	2018				\$ 53,125		\$ 53,125
Other	Overmatch	Local	2018				\$ 127,714		\$ 127,714
Other	Overmatch	Local	2018				\$ 514,850	\$ 95,150	\$ 610,000
CMAQ-State	Z400	Federal	2018					\$ 67,298	\$ 67,298
Local	Match	Local	2018					\$ 7,702	\$ 7,702
Total:				\$ -	\$ 355,000	\$ -	\$ 1,159,850	\$ 170,150	\$ 1,685,000
Notes:	1. Red Font = Funding reductions made to the project phase. Blue font = Additions made to the project as part of the amendment.								
	2. Funding programmed in years before 2018 are considered prior obligated and will be shown in the prior obligated total for the project in the 2018 MTIP. They are shown above in their programming years in the shaded fields.								
	3. CMAQ-State = federal Congestion Mitigation Air Quality improvement funds with the allocation now managed by ODOT								
	4. NHS = Federal National Highway System funds allocated to and managed by ODOT								
	5. State STP-FLX = Federal Surface Transportation Program (Flex) allocated and managed by ODOT								
	6. Local = local funds the lead agency commits to the project as part of the required match to the awarded federal funds.								
	7. ADVCON = State Advance Construction funds used as a placeholder for a specific future federal fund code to be assigned to the project								

Amendment Summary

An additional \$610,000 of local funds are being added to the construction and Other phases to address a revised construction phase cost increase. Part of the increase requires the times to be separated out of the construction phase and programmed/expended through the Other phase

Exhibit A to Resolution 18-4858

2018-2021 Metropolitan Transportation Improvement Program Chapter 5 Tables Amendment

Action: Amend the MTIP to increase or adjust required funding and add new projects for the following projects



PROJECT #2 EXISTING MTIP PROGRAMMING									
ODOT Key	MTIP ID	Lead Agency	Project Name					Project Type	Project Cost
18807	70769	King City	OR99W: SW Beef Bend Rd - SW Durham Rd					Highway	\$ 1,141,020
Project Description:			Install sidewalk on the west side of OR99W						
Existing MTIP Project Fund Programming by Phase - AS PROGRAMMED IN THW 2015 MTIP AND STIP BEFORE ROW OBLIGATION									
Fund Code	Note	Type	Year	Planning	Preliminary Engineering	Right of Wav	Construction	Other	Total
Redist	Z030	Federal	2015		\$ 133,787				\$ 133,787
Local	Match	Local	2015		\$ 15,313				\$ 15,313
Other	Overmatch	Local	2015		\$ 15,313				\$ 15,313
ADVCON	ACP0	Federal	2018			\$ 26,919			\$ 26,919
Local	Match	Local	2018			\$ 3,081			\$ 3,081
State STP-FLX	M240	Federal	2018				\$ 753,133		\$ 753,133
Local	Match	Local	2018				\$ 86,199		\$ 86,199
Other	Overmatch	Local	2018				\$ 107,275		\$ 107,275
Total:				\$ -	\$ 164,413	\$ 30,000	\$ 946,607	\$ -	\$ 1,141,020
Notes:	1. Red Font = Funding reductions made to the project phase. Blue font = Additions made to the project as part of the amendment.								
	2. Funding programmed in years before 2018 are considered prior obligated and will be shown in the prior obligated total for the project in the 2018 MTIP. They are shown above in their programming years in the shaded fields.								
	3. Redist = Federal funds eligible for Redistribution by ODOT								
	4. ADVCON = Federal advance construction fund type code used as a placeholder until the specific federal funding is determined								
	5. State STP-FLX = Federal Surface Transportation Program funding allocated to ODOT								
	6. Local = Local funds provided by the lead agency as the match requirement against the federal funds.								
	7. Other = Additional local funds beyond the required match requirement the lead agency provides to the project. Also called "overmatch" funding.								

Amendment Summary

Project changes are stated on the next page

PROJECT #2 PROPOSED AMENDED CHANGES									
ODOT Key	MTIP ID	Lead Agency	Project Name					Project Type	Project Cost
18807	70769	King City	OR99W: SW Beef Bend Rd - SW Durham Rd OR99W: SW Royalty Parkway - SE Durham Rd (King City)					Highway	\$ 1,141,020
Project Description:			Install sidewalk on the west side of OR99W- On OR99W near King City, fill sidewalk gaps to connect the City to OR99W corridor to increase access to transportation, improve travel options, promote vitality within the town center and enhance overall livability.						
Amended MTIP Fund Programming by Phase									
Fund Code	Note	Type	Year	Planning	Preliminary Engineering	Right of Way	Construction	Other	Total
State STP-FLX	M240	Federal	2015		\$ 222,084				\$ 222,084
Local	Match	Local	2015		\$ 25,418				\$ 25,418
State STP-FLX	M24E	Federal	2015		\$ 133,787				\$ 133,787
Local	Match	Local	2015		\$ 15,313				\$ 15,313
ADVCON	ACP0	Federal	2018			\$ 10,768			\$ 10,768
Local	Match	Local	2018			\$ 1,232			\$ 1,232
State STP-FLX	M240	Federal	2018				\$ 547,200		\$ 547,200
Local	Match	Local	2018				\$ 62,630		\$ 62,630
Other	Overmatch	Local	2018				\$ 122,588		\$ 122,588
Total:				\$ -	\$ 396,602	\$ 12,000	\$ 732,418	\$ -	\$ 1,141,020
Notes:	1. Red Font = Funding reductions made to the project phase. Blue font = Additions made to the project as part of the amendment.								
	2. Funding programmed in years before 2018 are considered prior obligated and will be shown in the prior obligated total for the project in the 2018 MTIP. They are shown above in their programming years in the shaded fields.								
	3. Redist = Federal funds eligible for Redistribution by ODOT								
	4. ADVCON = Federal advance construction fund type code used as a placeholder until the specific federal funding is determined								
	5. State STP-FLX = Federal Surface Transportation Program funding allocated to ODOT								
	6. Local = Local funds provided by the lead agency as the match requirement against the federal funds.								
	7. Other = Additional local funds beyond the required match requirement the lead agency provides to the project. Also called "overmatch" funding.								

Amendment Summary

Project name and description are updated based on revised project limits and scope. Multiple fund swaps are completed reflecting actual PE obligations for the project. ROW and construction phase decreases with savings added back to PE phase to address PE phase funding shortfall. Net change is the total project cost remains unchanged.

Project Number 3

Key 19719 - OR212/224 Sunrise Corridor - 122nd to 172nd Ave
Project programming in the 2015-18 STIP and 2015-18 MTIP

2015-2018 STIP Approved

2015-2018 STIP Approved

CLACKAMAS

Name: OR212/224 SUNRISE CORRIDOR: 122ND AVE - 172ND AVE

Key: 19719

Description: Funding for RW protective purchases

Region: 1

MPO: Non-MPO

Work Type: MODERN

Applicant: ODOT

Status: FUNDED THROUGH RIGHT OF WAY ACQUISITION

Location(s)

Mileposts	Length	Route	Highway	ACT	County(s)
6.55 to 8.19	1.64	OR-212	CLACKAMAS	REGION 1 ACT	CLACKAMAS
0.03 to 1.03	1.00	OR-224	CLACKAMAS	REGION 1 ACT	CLACKAMAS

Approved STIP Amounts

	Planning	Prelim. Engineering	Right of Way	Utility Relocation	Construction	Other	STIP Total
Total			\$5,000,000.00				\$5,000,000.00

Current Project Estimate

	Planning	Prelim. Engineering	Right of Way	Utility Relocation	Construction	Other	Project Total
Year			2016				
Total			\$4,650,000.00				\$4,650,000.00
Fund 1			B4A0 \$4,650,000.00				
Match							

Most Recent Amendment Approved

Amendment No: 15-18-2869

Approval Date: 9/5/2017

Requested Action: Reduce RW to \$4,640,000 by splitting \$270,000 to K19720 and \$90,000 to K19721.

Footnote:

Exhibit A to Resolution 18-4858

2018-2021 Metropolitan Transportation Improvement Program Chapter 5 Tables Amendment

Action: Amend the MTIP to increase or adjust required funding and add new projects for the following projects



PROJECT #3 EXISTING MTIP PROGRAMMING									
ODOT Key	MTIP ID	Lead Agency	Project Name					Project Type	Project Cost
19719	70846	ODOT	OR212/224 Sunrise Corridor: 122nd Ave - 172nd Ave					Highway	\$ 4,640,000
Project Description:			Funding for RW protective purchases						
Existing MTIP Project Fund Programming by Phase - AS PROGRAMMED IN THW 2015 MTIP AND STIP BEFORE ROW OBLIGATION									
Fund Code	Note	Type	Year	Planning	Preliminary Engineering	Right of Way	Construction	Other (ConOps & Sys Test)	Total
HB 2001	B4A0	State	2016			\$ 4,640,000			\$ 4,640,000
									\$ -
Total:				\$ -	\$ -	\$ 4,640,000	\$ -	\$ -	\$ 4,640,000
Notes:	1. Red Font = Funding reductions made to the project phase. Blue font = Additions made to the project as part of the amendment.								
	2. HB 2001 = State funds originating from approved House Bill 2001. Official name = HB2001B Bond Funds - JTA								
Amendment Summary									
1. The above reflects programming originally in the 2015 MTIP and 2015 STIP. The state HB2001 funds were obligated to the project (allowing expenditures to begin.									
2. The official correct amount for the ROW phase is \$4.640,000 and not \$4,650,000.									
3. The funds were obligated on 3/10/2016 (during early FFY 2016). The Expenditure Authority (EA) R1935000.									
4. Since the 2016 obligation date, not all obligated funds have been expended.									
5. The Oregon Transportation Commission during November 2017 approved a total of \$1,240,000 to be split from Key 19719 (this project) and then applied to two other projects (Keys 19720 and 19721 - also part of this amendment).									
7. Because the remaining funds left in Key 19719 (this project) are obligated, the project will not be shown as an active project in the 2018 MTIP.									
8. The adjustments are included as part of the Public Notification tables and to meet fiscal constraint requirements.									
9. The Proposed Amendment Changes table on the next page reflect the logic and reduction of splitting the \$1,240,000 from Key 19719 and re-allocating it to Keys 19720 and 19721.									

PROJECT #3 PROPOSED AMENDED CHANGES									
ODOT Key	MTIP ID	Lead Agency	Project Name					Project Type	Project Cost
19719	70846	ODOT	OR212/224 Sunrise Corridor: 122nd Ave - 172nd Ave					Highway	\$ 3,400,000
Project Description:			Funding for RW protective purchases						
Amended MTIP Fund Programming by Phase									
Fund Code	Note	Type	Year	Planning	Preliminary Engineering	Right of Way	Construction	Other	Total
HB 2001	B4A0	State	2016			\$ 20,000			\$ 20,000
State STBG-FLX	Z240	Federal	2016			\$ 3,032,874			\$ 3,032,874
State	Match	State	2016			\$ 347,126			\$ 347,126
Total:				\$ -	\$ -	\$ 3,400,000	\$ -	\$ -	\$ 3,400,000
Notes:	1. Red Font = Funding reductions made to the project phase. Blue font = Additions made to the project as part of the amendment.								
	2. HB 2001 = State funds originating from approved House Bill 2001. Official name = HB2001B Bond Funds - JTA								
	3. State STBG-FLX = Federal Surface Transportation Block Grant Program funding allocated and managed by ODOT								
	4. Funding programmed in years before 2018 are considered prior obligated and will be shown in the prior obligated total for the project in the 2018 MTIP. They are shown above in their programming years in the shaded fields.								

Amendment Summary	
\$1,240,000 of unexpended HB2001 funds are being split off from this project and will be applied to Keys 19720 and 19721. The remaining HB 2001 funds (except for \$20k) have been removed and replaced with federal Surface Transportation Block Grant funds. OTC approval during their November 2017 meeting.	

Exhibit A to Resolution 18-4858

2018-2021 Metropolitan Transportation Improvement Program Chapter 5 Tables Amendment

Action: Amend the MTIP to increase or adjust required funding and add new projects for the following projects



PROJECT #4 EXISTING MTIP PROGRAMMING - None **New Project**

PROJECT #4 PROPOSED AMENDED CHANGES

ODOT Key	MTIP ID	Lead Agency	Project Name					Project Type	Project Cost
19720	70845	ODOT	OR224 (Milwaukie Expressway): SE Rusk Rd - I-205					Highway	\$ 2,100,000
Project Description:		Add a westbound lane and improve the signals							
Amended MTIP Fund Programming by Phase									
Fund Code	Note	Type	Year	Planning	Preliminary Engineering	Right of Wav	Other (PE Prior Obligated)	Construction	Total
HB 2001	B4A0	State	2016				\$ 1,770,000		\$ 1,770,000
HB 2001	B4A0	State	2018		\$ 330,000				\$ 330,000
									\$ -
Total:			\$ -	\$ 330,000	\$ -	\$ 1,770,000	\$ -	\$ 2,100,000	
Notes:	1. Red Font = Funding reductions made to the project phase. Blue font = Additions made to the project as part of the amendment.								
	2. HB 2001 = State funds originating from approved House Bill 2001. Official name = HB2001B Bond Funds - JTA								

3. Funding programmed in years before 2018 are considered prior obligated and will be shown in the prior obligated total for the project in the 2018 MTIP. They are shown above in their programming years in the shaded fields.

Amendment Summary

\$330,000 of HB 2001 Bond Funds are being added to the PE phase in support of continue PE work activities. The \$330,000 originates from Key 19719. The funding has been split off of 19719 and combined into this project. OTC approval during November 2017.

Exhibit A to Resolution 18-4858

2018-2021 Metropolitan Transportation Improvement Program Chapter 5 Tables Amendment

Action: Amend the MTIP to increase or adjust required funding and add new projects for the following projects



PROJECT #5 EXISTING MTIP PROGRAMMING - None **New Project**

PROJECT #5 PROPOSED AMENDED CHANGES

ODOT Key	MTIP ID	Lead Agency	Project Name					Project Type	Project Cost
19721	70844	ODOT	I-205: OR224 (Sunrise Expressway) - Sunnybrook Blvd					Highway	\$ 1,500,000
Project Description:			Design to add a northbound auxiliary lane from westbound Sunrise Expressway entrance ramp to Sunnybrook Blvd exit ramp.						
Amended MTIP Fund Programming by Phase									
Fund Code	Note	Type	Year	Planning	Preliminary Engineering	Right of Way	Other (PE Prior Obligated)	Construction	Total
HB 2001	B4A0	State	2016				\$ 529,407		\$ 529,407
State	Match	State	2016				\$ 60,593		\$ 60,593
HB 2001	B4A0	State	2018		\$ 430,000				\$ 430,000
NHPP-FAST	Z001	Federal	2018		\$ 442,626				\$ 442,626
State	Match	State	2018		\$ 37,374				\$ 37,374
Total:				\$ -	\$ 910,000	\$ -	\$ 590,000	\$ -	\$ 1,500,000
Notes:	1. Red Font = Funding reductions made to the project phase. Blue font = Additions made to the project as part of the amendment.								
	2. HB 2001 = State funds originating from approved House Bill 2001. Official name = HB2001B Bond Funds - JTA								
	3. Funding programmed in years before 2018 are considered prior obligated and will be shown in the prior obligated total for the project in the 2018 MTIP. They are shown above in their programming years in the shaded fields.								
	4. New HB2001 and swap with NHPP originate from splitting funds from Key 19719.								
	5. NHPP-FAST = Federal National Highway Performance Program funds originating from the FAST Act and allocated to ODOT.								
	6. State = Required generic state funds committed to the project in support of federal fund match requirements.								

Amendment Summary

\$910,000 of HB 2001 and NHPP funding with match are being added to the PE phase in support of continue PE work activities. The \$910,000 originates from Key 19719. The funding has been split off of 19719 and combined into this project. OTC approval was required and occurred during their November 2017 meeting

Exhibit A to Resolution 18-4858

2018-2021 Metropolitan Transportation Improvement Program Chapter 5 Tables Amendment

Action: Amend the MTIP to increase or adjust required funding and add new projects for the following projects



PROJECT #6 EXISTING MTIP PROGRAMMING									
ODOT Key	MTIP ID	Lead Agency	Project Name					Project Type	Project Cost
18769	70801	ODOT	OR99E Rockfall Mitigation MP 12.62- MP 14.06					Highway	\$ 1,889,000
Project Description:			Rockfall Mitigation						
Existing MTIP Project Fund Programming by Phase									
Fund Code	Note	Type	Year	Planning	Preliminary Engineering	Right of Wav	Construction	Other	Total
ADVCON	ACP0	Federal	2016		\$ 193,817				\$ 193,817
State	Match	State	2016		\$ 22,183				\$ 22,183
ADVCON	ACP0	Federal	2018				\$ 1,456,318		\$ 1,456,318
State	Match	State	2018				\$ 166,682		\$ 166,682
ADVCON	ACP0	Federal	2018					\$ 44,865	\$ 44,865
State	Match	State	2018					\$ 5,135	\$ 5,135
Total:				\$ -	\$ 216,000	\$ -	\$ 1,623,000	\$ 50,000	\$ 1,889,000
Notes:	1. Red Font = Funding reductions made to the project phase. Blue font = Additions made to the project as part of the amendment.								
	2. Funding programmed in years before 2018 are considered prior obligated and will be shown in the prior obligated total for the project in the 2018 MTIP. They are shown above in their programming years in the shaded fields.								
	3. State STBG = Federal Surface Transportation Block Grant funding allocated directly to ODOT.								
	4. State = ODOT state funds added to the project phase as their required match to the federal fund type STBG								

Amendment Summary

Proposed amended changes are stated on the next page

PROJECT #6 PROPOSED AMENDED CHANGES									
ODOT Key	MTIP ID	Lead Agency	Project Name					Project Type	Project Cost
18769	70801	ODOT	OR99E: Rockfall Mitigation MP 12.62—MP14.06 OR99E:Rockfall - Oregon City Tunnel to Old Canemah Park					Highway	\$ 1,889,000
		Project Description:	-Rockfall Mitigation On OR99E near Oregon City , inspect and repair mesh. Scale slope behind mesh removing loose rock and vegetation. Rock bolting as needed and clear catchment area / roadside ditch						
Amended MTIP Fund Programming by Phase									
Fund Code	Note	Type	Year	Planning	Preliminary Engineering	Right of Wav	Construction	Other	Total
ADVCON	ACP0	Federal	2016		\$ 89,730				\$ 89,730
State	Match	State	2016		\$ 10,270				\$ 10,270
State STP	M240	Federal	2016		\$ 193,817				\$ 193,817
State	Match	State	2016		\$ 22,183				\$ 22,183
ADVCON	ACP0	Federal	2018				\$ 1,366,588		\$ 1,366,588
State	Match	State	2018				\$ 156,412		\$ 156,412
ADVCON	ACP0	Federal	2018					\$ 44,865	\$ 44,865
State	Match	State	2018					\$ 5,135	\$ 5,135
Total:				\$ -	\$ 316,000	\$ -	\$ 1,523,000	\$ 50,000	\$ 1,889,000
Notes:	1. Red Font = Funding reductions made to the project phase. Blue font = Additions made to the project as part of the amendment.								
	2. Funding programmed in years before 2018 are considered prior obligated and will be shown in the prior obligated total for the project in the 2018 MTIP. They are shown above in their programming years in the shaded fields.								
	3. ADVCON = Advance Construction. A generic federal fund code used as a placeholder to identify future federal funds that will be committed to the project. Federal share = 89.73% with the required match set at 10.27%								
	4. State = ODOT state funds added to the project phase as their required match to the federal fund type ADVCON.								

Amendment Summary	
Project name and description changed to reflect updated scope and new limits. PE phase reduces use of Advance Construction and inserts State STP in it's place to address funding shortfall in PE. Construction phase decreased as a result of the smaller project limits. Overall, the total project cost remains unchanged.	

Memo

Date: Thursday, January 18, 2018
To: Council and Interested Parties
From: Ken Lobeck, Funding Programs Lead, 503-797-1785
Subject: December 2017 MTIP Formal Amendment plus Approval Request of Resolution 18-4858


STAFF REPORT

FOR THE PURPOSE OF ADDING OR AMENDING EXISTING PROJECTS TO THE 2018-21 METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM INVOLVING SIX PROJECTS REQUIRING PROGRAMMING ADDITIONS, CORRECTIONS, OR CANCELLATIONS IMPACTING GRESHAM, KING CITY, AND ODOT (DE18-05-DEC)

BACKGROUND

What this is:

The December 2017 Formal MTIP Amendment bundle contains required changes and updates impacting Gresham, King City, and ODOT. Six projects are included in the amendment bundle and are summarized in the below table:

2018-2021 Metropolitan Transportation Improvement Program Exhibit A to Resolution 18-4858				 Metro
Proposed December 2017 Formal Amendment Bundle Amendment Type: FORMAL, DE18-05-DEC Total Number of Projects: 6				
ODOT Key	Lead Agency	Project Name	Required Changes	
#1 18306	Gresham	East Metro Connections ITS	Add \$570,000 of agency local funds to the construction phase to address a revised construction phase cost increase.	
#2 18807	King City	OR99EW: SW Beef Bend Rd—SW Durham Rd (King City) OR99W: SW Royalty Parkway - SW Durham Rd (King City)	Changing name, reducing scope to include only one sidewalk infill, reduce ROW funding, reduce the construction phase funding (from the reduced scope), and moving the savings back to PE	
#3 19719	ODOT	OR212/224 Sunrise Corridor: 122nd Ave - 172nd Ave	Splitting unexpended funding from this project from the 2015 MTIP and STIP project to two projects being re-added to the 2018 MTIP and STIP with the following changes: Splitting existing unexpended funding with \$330k committed to Key 19720 and \$910k committed to Key 19721. Reduced obligated funding in Key 19719 decreases key 19719 to \$3,400,000. Key 19719 remains as a prior obligated project and will not show up as a active project	
#4 19720 New	ODOT	OR224 (Milwaukie Expressway): SE Rusk Rd - I-205	Re-adding project to the 2018 MTIP enabling PE phase to be increased	
#5 19721 New	ODOT	I-205: OR224 (Sunrise Expressway) - Sunnybrook Blvd	Splitting \$990k from Key 19719 and adding it to Key 19721 for additional PE phase requirements	
#6 18769	ODOT	OR99E: Rockfall Mitigation MP 12.62—MP 14.06 OR99E: Rockfall - Oregon City Tunnel to Old Canemah Park	Changing project limits greater than 0.25 miles total and adjusting project name and description per updated scope	

What is the requested action?

Staff is providing TPAC notification of the formal amendment and requesting their approval recommendation to JPACT for resolution 18-4858 to Metro Council enabling the six identified projects to be amended correctly into the 2018 MTIP, and then allowing final approval to occur from USDOT.

A detailed summary of the six projects being amended is provided in the below tables:

1. Project: East Metro Connections ITS	
Lead Agency:	Gresham
ODOT Key Number:	18306
MTIP ID Number:	70609
Project Description:	Update traffic signal hardware and communications. Install changeable message sign.
What is changing?	<p>Note: Through the Public Comment/Notification period, Metro received a technical comment from the city of Gresham requesting a change to the proposed project programming as presented to the TPAC due to a second identified cost increase to the project. The second cost increase to the project has been requested to be included as part of the overall formal amendment.</p> <p>Updated cost estimates as final design for the project was being completed revealed increases to the construction phase, required increases to be included for necessary administrative overhead, and project contingencies. The summary of the cost increases can be attributed a project moving from general scope and design objectives that was refined through the normal federal NEPA and final design process. The impact of the construction, overhead, and contingency cost increases to the project adds an additional \$610,000 to the total project cost. The revised total project cost is now \$1,685,000. Note: The cost increase for this Intelligent Transportation System project is not unusual for ITS projects. Due to changing technology and the requirement to prove their concept of operation as a beneficial improvement to the transportation system, ITS projects can easily evolve into much more complicated, technically constrained, and costly projects than first proposed.</p> <p>The city of Gresham has the local funding to cover the cost increase and commit to the project. Rather than waiting to accomplish another cost increase amendment to the project, the city of Gresham requested the revised cost increase to be included as part the current formal amendment to avoid further delays to implement the project. As part of the public comment process, staff have reviewed and approved Gresham's request.</p>
Additional Details:	The city of Gresham is adding local funds to the construction and Other phases to address the cost increase and ensure the construction phase is not considered short-programmed.
Why a Formal amendment is required?	Per the FHWA STIP and MTIP amendment matrix, Projects with a total project cost of \$1 million or greater that experience a cost increase above 20% require a formal MTIP amendment to complete the cost increase for the project.
Total Programmed Amount:	The amendment adds a total of \$570,000 to the construction phase. The project programming amount increases from \$1,075,000 to \$1,685,000
Added Notes:	The additional local funds committed to the project will ensure the project can implement and delivery the full project scope without requiring any changes.

2. Project: OR99W: SW Beef Bend Rd - SW Durham Rd OR99W: SW Royalty Parkway - SW Durham Rd (King City)	
Lead Agency:	King City
ODOT Key Number:	18807
MTIP ID Number:	70769
Project Description:	<p>Install sidewalk on the west side of OR99W</p> <p>On OR99W near King City, fill sidewalk gaps to connect the City to OR99W corridor to increase access to transportation, improve travel options, promote vitality within the town center and enhance overall livability.</p>

What is changing?	Due to a revision in the project limits, the project scope is being modified. This results in a required updated to the project name and description. Project funding remains unchanged. Scope reduction now only includes sidewalk infill between SW Royalty Pkwy and SW Durham Rd (MP 11.21 to MP11.36). Additional funds were not available to address the cost increase resulting in the revised limits and scope of work.
Additional Details:	As a result of the scope adjustment, the Right of Way phase also decreases from \$30,000 to \$12,000
Why a Formal amendment is required?	Per the FHWA STIP and MTIP amendment matrix, major scope changes or project limit changes beyond 0.25 miles require a formal amendment to complete the changes.
Total Programmed Amount:	The amendment swaps out several funds with State STP funds. Overall, the project programming amount remains unchanged at \$1,141,020
Added Notes:	

Changes being made to Key 19719 impact Keys 19720 and 19721 that are also part of this amendment

3. Project: OR212/224 Sunrise Corridor: 122nd Ave - 172nd Ave	
Lead Agency:	ODOT
ODOT Key Number:	19719 MTIP ID Number: 70846
Project Description:	Funding for RW protective purchases
What is changing?	Unexpended obligated Right of Way phase funding that is not currently required for this project is being de-obligated and shifted to Keys 19720 and 19721 (next two projects). The de-obligated funding is being reprogrammed to the PE phases of project Keys 19720 and 19721. A total of \$1,240,000 is being shifted from Key 19719 to Key 19720 (which adds \$330,000 to the PE phase) and to Key 19721 (which adds \$910,000 to the PE phase)
Additional Details:	Because the ROW phase obligation occurred in 2016, the project was not carried over into the 2018 MTIP. However, the changes to Keys 19720 and 19721 needs to include this project to show the audit trail of how the funds were shifted. Key 19719 (this project) will remain as a prior obligated project and not show up in the 2018 MTIP as an active project.
Why a Formal amendment is required?	Because Keys 19720 and 19721 are being re-added to the MTIP, they are considered to be new projects. Per the FHWA STIP and MTIP amendment matrix, new projects being added to the MTIP require a formal amendment. Since Key 19719 is part of the re-add process, it must proceed as well as a formal amendment.
Total Programmed Amount:	The amendment reduces the total programmed amount from \$4,640,000 to \$3,400,000
Added Notes:	De-obligation and transfer approval from Key 19719 to Keys 19720 and 19721 occurred by OTC at their November 2017 meeting

4. Project: OR224 (Milwaukie Expressway): SE Rusk Rd - I-205	
Lead Agency:	ODOT
ODOT Key Number:	19720 MTIP ID Number: 70845
Project Description:	Add a westbound lane and improve the signals
What is changing?	The project receives an additional \$330,000 from Key 19719 to continue PE activities. The PE phase was initially programmed with \$1,770,000 of HB 2001 JTA state funds which were obligated back in 2016. They are shown in the Other phase in Exhibit A/Public Notification Tables. The additional \$330,000 is shown in 2018 in the year it will be obligated in support of the project.
Additional Details:	Funding is being added only to the PE phase to continue with PE phase work
Why a Formal amendment is required?	Since the project obligated the phase as part of the 2015 MTIP and no new funds were identified for the project, it was not carried over into the 2018 MTIP. With the addition of the new PE funds in FY 2018, the project needs to be re-added to the 2018 MTIP. Per the FHWA Amendment Matrix, adding a new project to the MTIP

	requires a formal amendment
Total Programmed Amount:	The amendment increase the total programmed amount from \$1,770,000 to \$2,100,000
Added Notes:	De-obligation and transfer approval from Key 19719 to Key 19720 occurred by OTC at their November 2017 meeting

5. Project:	I-205: OR224 (Sunrise Expressway) – Sunnybrook Blvd		
Lead Agency:	ODOT		
ODOT Key Number:	19721	MTIP ID Number:	70844
Project Description:	Design to add a northbound auxiliary lane from westbound Sunrise Expressway entrance ramp to Sunnybrook Blvd exit ramp.		
What is changing?	The project receives an additional \$910,000 from Key 19719 to continue PE activities. The PE phase was initially programmed with \$590,00 of HB 2001 JTA state funds which were obligated back in 2016. They are shown in the Other phase in Exhibit A/Public Notification Tables. The additional \$910,000 is shown in 2018 in the year it will be obligated in support of the project. The new funding is split between HB 2001 funds and National Highway Performance Program Funds (NHPP)		
Additional Details:	Funding is being added only to the PE phase to continue with PE phase work		
Why a Formal amendment is required?	Since the project obligated the phase as part of the 2015 MTIP and no new funds were identified for the project, it was not carried over into the 2018 MTIP. With the addition of the new PE funds in FY 2018, the project needs to be re-added to the 2018 MTIP. Per the FHWA Amendment Matrix, adding a new project to the MTIP requires a formal amendment		
Total Programmed Amount:	The amendment increases the total programmed amount from \$590,000 to \$1,500,000		
Added Notes:	De-obligation and transfer approval from Key 19719 to Key19721 occurred by OTC at their November 2017 meeting		

6. Project:		OR99E Rockfall Mitigation MP 12.62- MP 14.06 OR99E:Rockfall - Oregon City Tunnel to Old Canemah Park	
Lead Agency:	ODOT		
ODOT Key Number:	18769	MTIP ID Number:	70801
Project Description:	Rockfall Mitigation On OR99E near Oregon City, inspect and repair mesh. Scale slope behind mesh removing loose rock and vegetation. Rock bolting as needed and clear catchment area/roadside ditch		
What is changing?	Project limits have been reduced and adjusted due to scope update. This results in a required name change and description update. The total project cost remains unchanged but STP is now committed to the PE phase to address a PE funding shortfall.		
Additional Details:	The change in limits and scope reduces the construction phase cost. The savings are being shifted back to the PE phase to cover the PE phase shortfall		
Why a Formal amendment is required?	Since the project obligated the phase as part of the 2015 MTIP and no new funds were identified for the project, it was not carried over into the 2018 MTIP. With the addition of the new PE funds in FY 2018, the project needs to be re-added to the 2018 MTIP. Per the FHWA Amendment Matrix, adding a new project to the MTIP requires a formal amendment		
Total Programmed Amount:	The amendment results in no change to the programmed amount for the project. The project remains programmed at \$1,889,000.		
Added Notes:			

METRO REQUIRED PROJECT AMENDMENT REVIEWS

In accordance with 23 CFR 450.316-328, Metro is responsible for reviewing and ensuring MTIP amendments comply with all federal programming requirements. Each project and their requested changes are evaluated against multiple MTIP programming review factors that originate from 23 CFR 450.316-328. The programming factors include:

- Verification as required to programmed in the MTIP:
 - Awarded federal funds and is considered a transportation project
 - Identified as a regionally significant project.
 - Identified on and impacts Metro transportation modeling networks.
 - Requires any sort of federal approvals which the MTIP is involved.
- Passes fiscal constraint verification:
 - Project eligibility for the use of the funds
 - Proof and verification of funding commitment
 - Requires the MPO to establish a documented process proving MTIP programming does not exceed the allocated funding for each year of the four year MTIP and for all funds identified in the MTIP.
- Passes the RTP consistency review:
 - Identified in the current approved constrained RTP either as a stand- alone project or in an approved project grouping bucket
 - RTP project cost consistent with requested programming amount in the MTIP
 - If a capacity enhancing project – is identified in the approved Metro modeling network
- Satisfies RTP goals and strategies consistency: Meets one or more goals or strategies identified in the current RTP
- Determined the project is eligible to be added to the MTIP, or can be legally amended as required without violating provisions of 23 CFR450.300-338 either as a formal Amendment or administrative modification:
 - Does not violate supplemental directive guidance from FHWA/FTA's approved Amendment Matrix.
 - Adheres to conditions and limitation for completing technical corrections, administrative modifications, or formal amendments in the MTIP.
 - Is eligible for special programming exceptions periodically negotiated with USDOT as well.
 - Programming determined to be reasonable of phase obligation timing and is consistent with project delivery schedule timing.
- MPO responsibilities completion:
 - Completion of the required 30 day Public Notification period:
 - Project monitoring, fund obligations, and expenditure of allocated funds in a timely fashion.
 - Acting on behalf of USDOT to provide the required forum and complete necessary discussions of proposed transportation improvements/strategies throughout the MPO.

APPROVAL STEPS AND TIMING

Metro's approval process for formal amendment includes multiple steps. The required approvals for the December 2017 Formal MTIP amendment will include the following:

- | <u>Action</u> | <u>Target Date</u> |
|---|-------------------------|
| • Initiate the required 30-day public notification process..... | December 11, 2017 |
| • TPAC notification and approval recommendation..... | December 15, 2017 |
| • Completion of public notification process..... | January 12, 2018 |
| • JPACT approval and recommendation to Council..... | January 18, 2018 |
| • Metro Council approval..... | January 25, 2018* |

Note: The proposed Council approval date could change

USDOT Approval Steps:

<u>Action</u>	<u>Target Date</u>
• Metro development of amendment narrative package	NLT January 19 , 2018
• Amendment bundle submission to ODOT for review.....	NLT January 22, 2018
• Submission of the final amendment package to USDOT.....	NLT January 29, 2018
• ODOT clarification and approval.....	Mid February , 2018
• USDOT clarification and final amendment approval.....	Late February 2018

ANALYSIS/INFORMATION

1. **Known Opposition:** None known at this time.
2. **Legal Antecedents:** Amends the 2018-2021 Metropolitan Transportation Improvement Program adopted by Metro Council Resolution 17-4817 on July 27, 2017 (For The Purpose of Adopting the Metropolitan Transportation Improvement Program for the Portland Metropolitan Area).
3. **Anticipated Effects:** Enables the projects to obligate and expend awarded federal funds.
4. **Metro Budget Impacts:** None to Metro

RECOMMENDED ACTION:

JPACT recommends the approval of Resolution 18-4858.

(TPAC approval: December 15, 2017)

(JPACT approval: January 18, 2018)

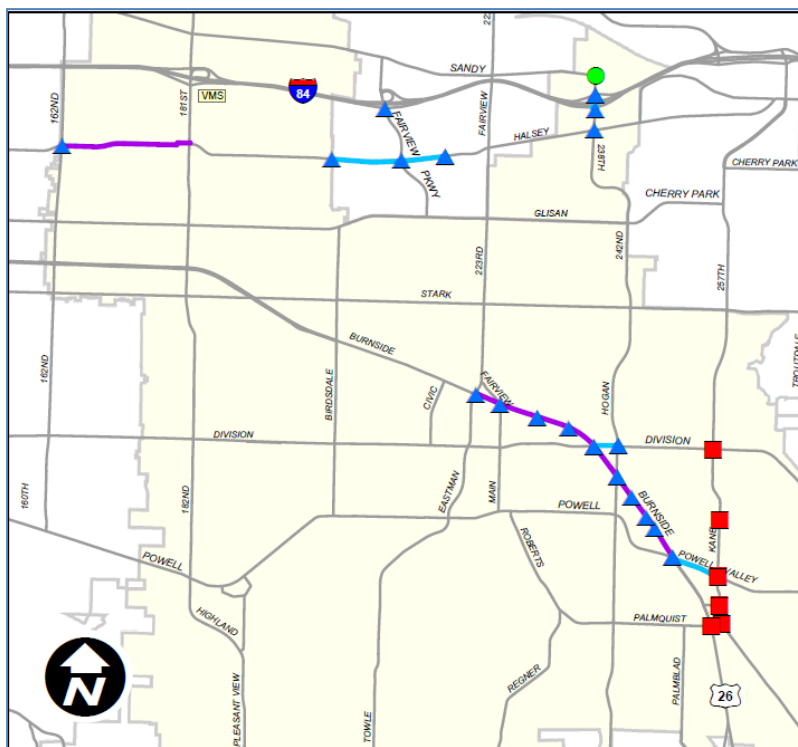
Attachment: Project Location Maps

Date: Thursday, January 18, 2018
 From: Ken Lobeck, Funding Programs Lead, 503-797-1785
 Subject: Attachment 1 to December 2017 MTIP Formal Amendment Staff Report – Project Location Maps

BACKGROUND

Available project location maps are included in this attachment to the staff report for projects included.

Key 18306 East Metro Connections ITS, City of Gresham



LEGEND

HARDWARE UPGRADES

- CONTROLLER AND COMMUNICATIONS UPGRADE
- ▲ COMMUNICATIONS UPGRADE ONLY
- SCATS EXPANSION

Signal Communication Cable Install

- 96 Strand Fiber Optic
- 12 Strand Fiber Optic

Variable Message Sign

- VMS Arterial VMS

0
 1

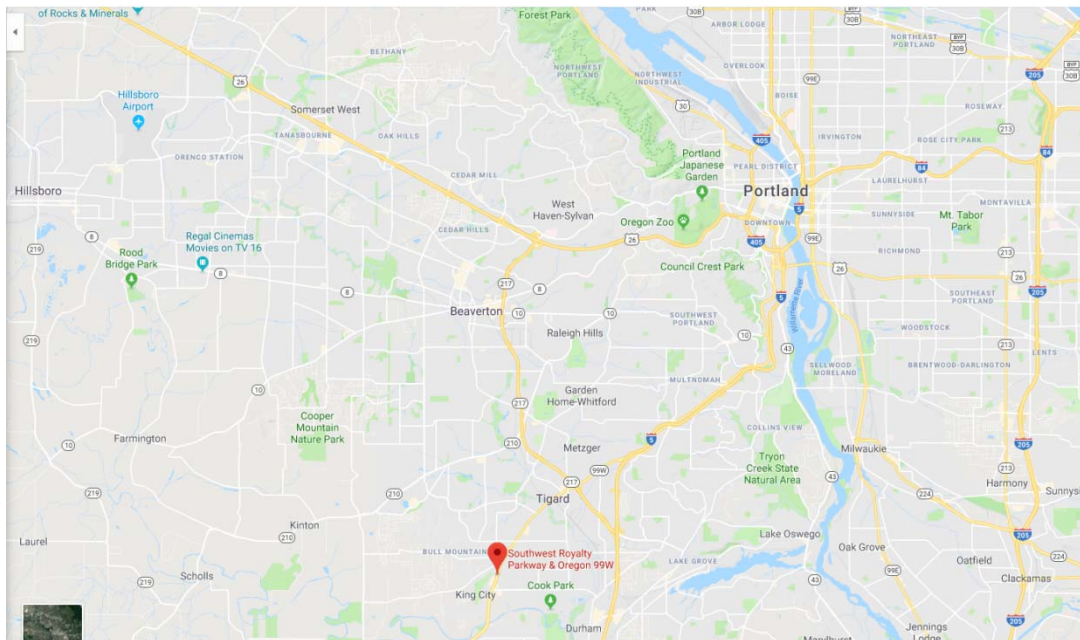
Key 18807
OR99W: SW Royalty Parkway - SE Durham Rd (King City)



K18807: SW Royalty Pkwy - SW Durham Rd

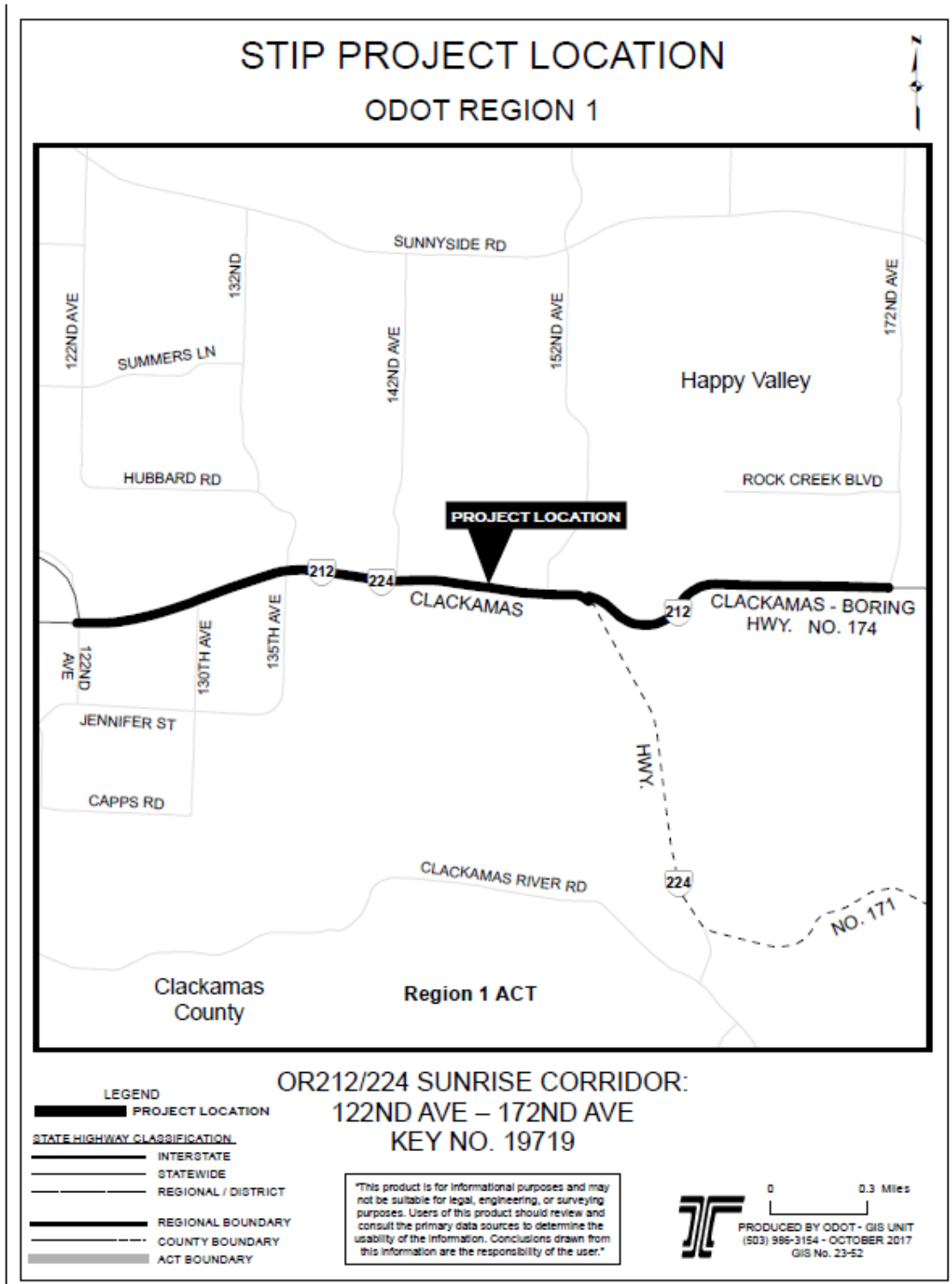
SW Royalty Pkwy, MP 11.22

SW Durham Rd, MP 11.38



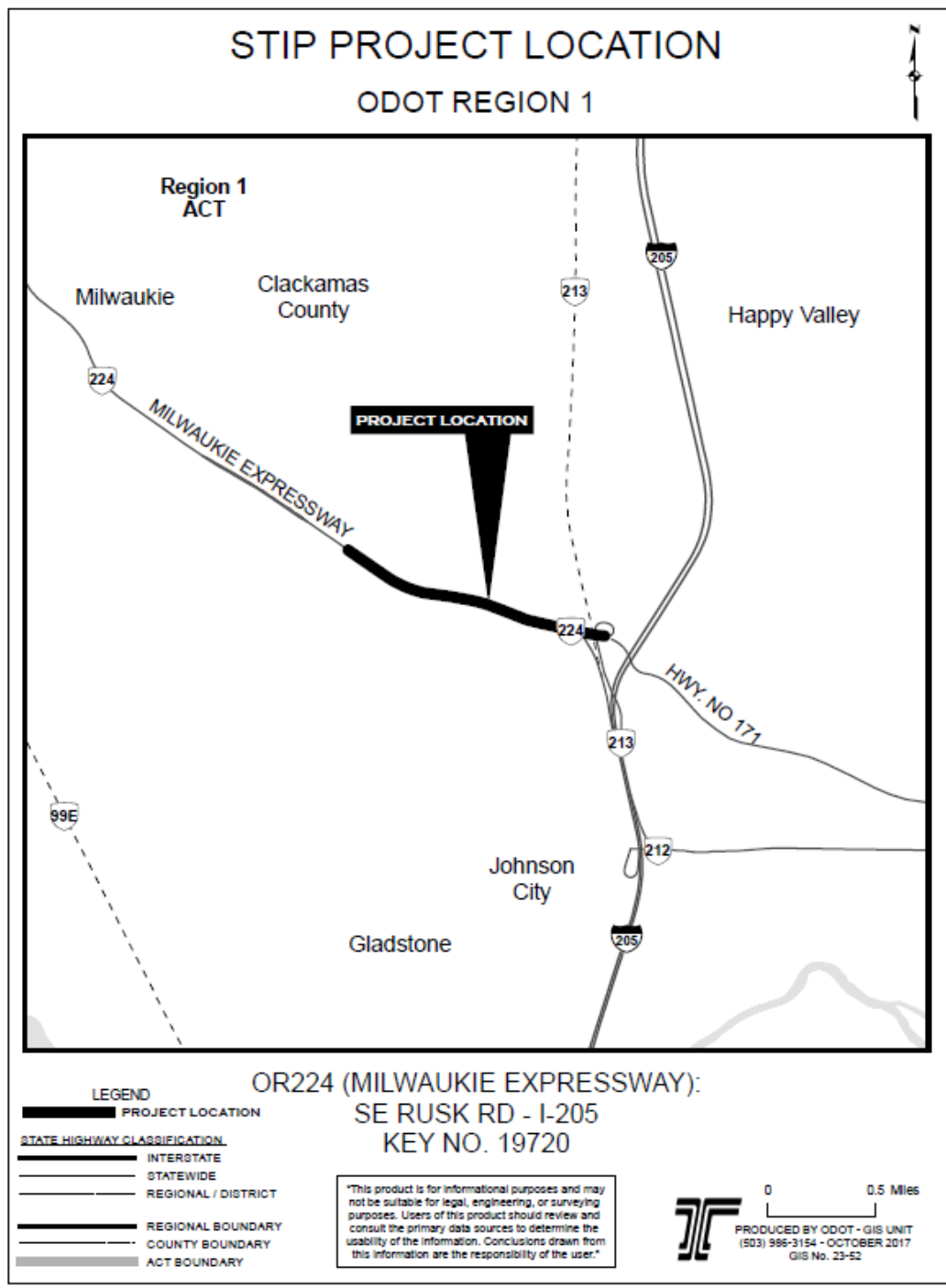
Key 19719

OR212/224 Sunrise Corridor: 122nd – 172nd Ave, ODOT
(Corrected map now inserted)



Key 19720

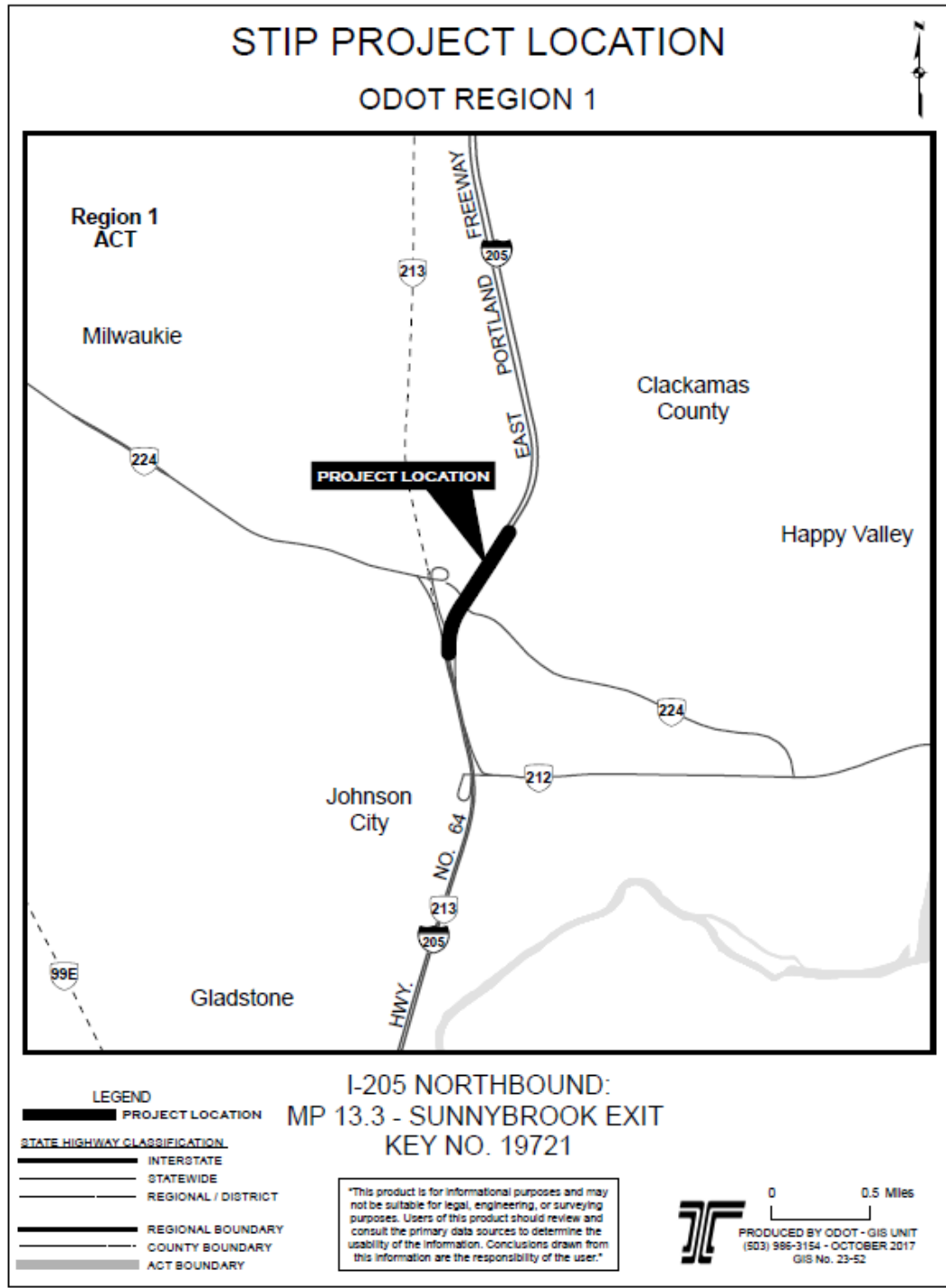
OR224 (Milwaukie Expressway): SE Rusk Rd - I-205, ODOT



is_resource@wvngis23_52_0TC_maps_and_graphics\0TC_MAPS\0TC_17_MAPS\REGION1.MXD

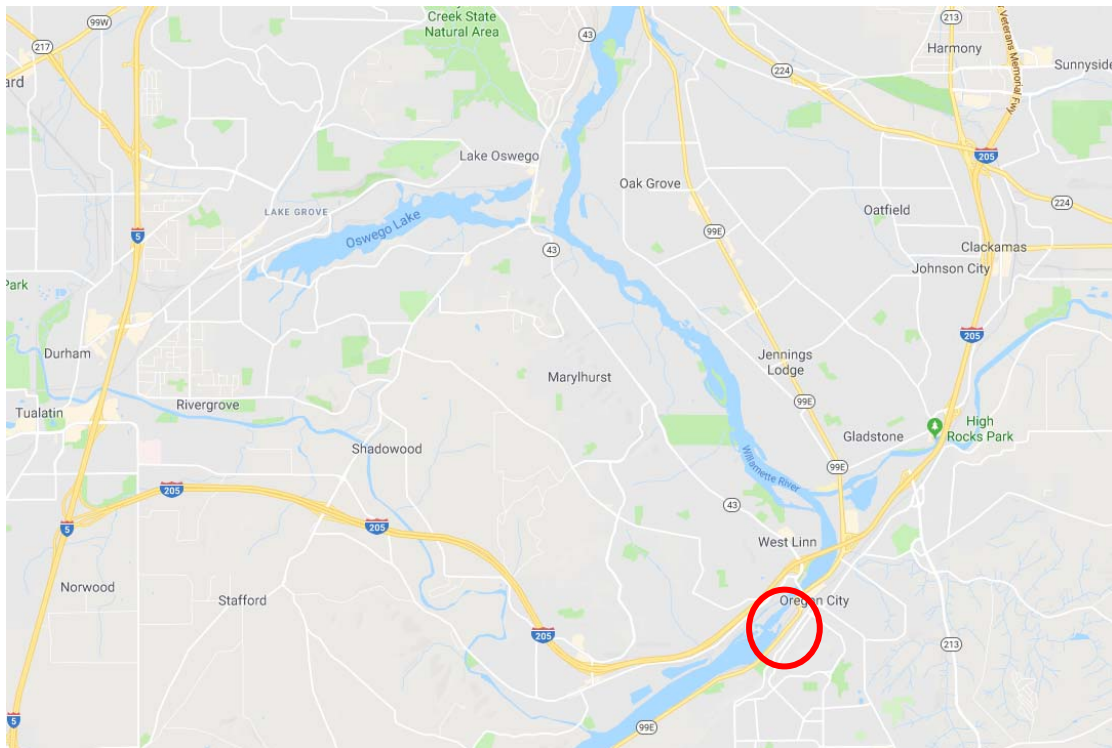
Key 19721

I-205: OR224 (Sunrise Expressway) - Sunnybrook Blvd



Key 18769

OR99E: Rockfall - Oregon City Tunnel to Old Canemah Park, ODOT



Agenda Item No. 3.3

Consideration of the Council Meeting Minutes for January 18, 2018

Consent Agenda

Metro Council Meeting
Thursday, January 25, 2018
Metro Regional Center, Council Chamber

Agenda Item No. 4.1

Resolution No. 18-4866, For the Purpose of Adopting an
Agenda for the 2018 Oregon Legislative Session

Resolutions

Metro Council Meeting
Thursday, January 25, 2018
Metro Regional Center, Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ADOPTING AN	)	RESOLUTION NO. 18-4866
AGENDA FOR THE 2018 OREGON)	
LEGISLATIVE SESSION	)	Introduced by Council President Tom Hughes

WHEREAS, Metro has an interest in bills before the 2018 Oregon Legislature; and

WHEREAS, the Metro Council and Metro staff will represent Metro's interest during the upcoming legislative session; and

WHEREAS, the Metro Council wishes to establish a united position on important legislative proposals and provide direction to its staff in order to represent the will of the agency; and

WHEREAS, the attached Exhibit "A" of this resolution lists specific expected and potential 2018 issues that are of concern to Metro and the metropolitan region and gives guidance to staff on the Metro Council's position on these issues; and

WHEREAS, the attached Exhibit "B" states the Metro Council's principles regarding categories of potential legislation in order to provide guidance to staff in representing Metro; now therefore

BE IT RESOLVED that the Metro Council hereby directs the Metro Chief Operating Officer, the Metro Attorney, and Metro staff to communicate the agency's position on a variety of legislative proposals to the 2018 Oregon Legislature consistent with Exhibits "A" and "B" attached hereto.

ADOPTED by the Metro Council this _____ day of January, 2018.

Tom Hughes, Council President

Approved as to Form:

Alison Kean, Metro Attorney



600 NE Grand Ave.
Portland, OR 97232-2736
oregonmetro.gov

METRO COUNCIL LEGISLATIVE PRIORITIES
2018 Legislative Session

TOP PRIORITY ITEMS

- **Urban growth management:** Ensure that the Legislature establishes the policy framework and process for local land use decisions and respects the authority of local governments, including Metro, to make specific decisions on local land use matters. Oppose efforts to legislatively determine specific land use designations in the region.
- **Affordable housing:** Support legislation asking voters to consider a constitutional amendment providing more flexibility in how affordable housing dollars raised through general obligation bonds may be spent. Support an increase in the document recording fee dedicated to affordable housing. Support other legislation increasing housing funding, improving tenant protections, and providing additional tools and authority to local governments to address housing affordability.
- **Climate:** Support legislation to create a “cap and invest” system to reduce greenhouse gas emissions and incentivize investment in clean energy. Seek specific provisions that support implementation of the Portland region’s Climate Smart Strategy to reduce transportation-related carbon emissions. Seek opportunities to support other climate-related investments related to Metro’s other areas of responsibility.
- **Household hazardous waste:** Support legislation establishing a program based on producer responsibility and product stewardship principles to manage household hazardous waste.

OTHER ITEMS

- **Brownfield cleanup and redevelopment:** Support establishment of a state brownfield cleanup tax credit.
- **Air quality:** Support proposals to establish requirements and incentives to reduce diesel particulate emissions, increase the use of clean diesel engines, and reduce diesel engine idling.
- **Qualification-based selection:** Support legislation establishing an alternative approach to contracting for certain categories of professional services that enables a contracting agency to consider price as a factor before selecting a contractor.
- **Tax Supervising and Conservation Commission:** Support legislation increasing the cap and growth factor for the TSCC’s budget.
- **Industrial site readiness:** Support allocation of funds to implement statute authorizing loans to local governments to make land inside the urban growth boundary available for industrial development and job creation through infrastructure investment, brownfield cleanup, land aggregation, and other means.

METRO COUNCIL 2018 LEGISLATIVE PRINCIPLES¹

LOCAL AUTHORITY

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

EQUITY

3. **Racial Diversity, Equity and Inclusion:** Metro envisions a region and state where a person's race, ethnicity or zip code does not predict their future prospects and where all residents can enjoy economic opportunity and quality of life.² Metro therefore supports legislation that acknowledges past discrimination, addresses current disparities and promotes inclusion in public programs, services, facilities and policies.

LAND USE AND URBAN GROWTH MANAGEMENT:

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

households that must spend more than 50 percent of their income on housing plus transportation.⁷

11. **Transportation:** Land use and transportation planning should be coordinated so land uses do not undermine the efficiency and reliability of the transportation system and transportation investments do not lead to unintended or inefficient land uses.⁸
12. **Annexation:** Cities are the preferred governing structure for providing public services to urban areas, and Metro supports reforms that will facilitate, or reduce barriers to, orderly annexation and incorporation.
13. **Rules/Statutes:** Administrative rules should not be adopted into statute.
14. **Non-Regulatory Tools:** State efforts at regulatory streamlining should include funding to support development of non-regulatory tools for achieving desired land use outcomes.⁹
15. **Fiscal Responsibility:** Funding to support urban development should be generated at least in part by fees on those who directly benefit from that development.

SOLID WASTE:

16. **Product Stewardship:** Metro supports efforts to minimize the health, safety, environmental, economic and social risks throughout all lifecycle stages of a product and its packaging, and believes that the producer of the product has the greatest ability, and therefore the greatest responsibility, to minimize those adverse impacts.¹⁰

TRANSPORTATION:

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

PARKS AND NATURAL AREAS:

19. **Parks and Natural Areas:** Our region has invested heavily in protecting water quality and wildlife habitat and providing residents with access to nature and outdoor activity. Parks and natural areas are regional assets that support public health, environmental quality, strong property values and economic prosperity. For these reasons, Metro supports measures to increase local and regional authority to raise revenues to support parks and natural areas and to increase the level of state funding distributed to local governments for acquisition, capital improvements, and park operations.¹¹

SUSTAINABILITY:

20. **Climate Change:** Metro supports efforts to combat and adapt to climate change and to meet the state's goals for reducing greenhouse gas emissions. Metro and its regional partners are committed to the Climate Smart Strategy, which includes actions needed to achieve state targets for reducing greenhouse gas emissions from transportation.¹² The state should provide financial support for implementation of the Climate Smart Strategy.

- 21. Species Conservation:** Metro supports efforts to protect and restore wildlife habitat, to recover threatened and endangered species, and to create a better future for wildlife, both in Oregon and globally.¹³
- 22. Conservation Education:** Metro supports efforts to provide stable and reliable funding to conservation education.

ECONOMIC PROSPERITY:

- 23. Infrastructure Finance:** Metro supports measures, including funding or revenue measures, which facilitate state, regional or local investments in the public structures needed to accommodate population and economic growth in a way that helps the region achieve its six desired outcomes for successful communities.
- 24. Metro Venues:** Because the Oregon Convention Center, Expo Center, Portland's Centers for the Arts and Oregon Zoo are assets that contribute millions of dollars to the state and regional economies, Metro supports legislative measures that facilitate the success of these venues in attracting visitors and enhancing the quality of their experiences.

AGENCY OPERATIONS:

- 25. Firearms and Public Facilities:** Metro supports legislation that increases Metro's authority to regulate the carrying of firearms on Metro properties and public venues, and opposes legislation that limits or reduces that authority.
- 26. Disaster Preparedness:** Metro supports legislative efforts to improve community disaster preparedness and resilience, with the goal of enabling the Portland region to provide for the immediate needs of its residents and businesses after a catastrophic event and facilitating the region's short- and long-term recovery.

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

² See [Strategic plan to advance racial equity, diversity and inclusion](#).

³ See <http://oregonvaluesproject.org/findings/top-findings/> (specifically item 5, Natural Resource Protections for Future Generations)

⁴ RFP Chapter 1 (Land Use).

⁵ RFP Policy 1.1 (Compact Urban Form).

⁶ RFP Policy 1.9 (Urban Growth Boundary).

⁷ RFP Policy 1.3 (Housing Choices and Opportunities).

⁸ RFP Policy 1.3.13 (Housing Choices and Opportunities); Transportation Goal 1 (Foster Vibrant Communities and Efficient Urban Form).

⁹ RFP Policy 1.1 (Compact Urban Form); Policy 1.2 (Centers, Corridors, Station Communities and Main Streets).

¹⁰ See [Metro Code 5.01.010](#)

¹¹ [Metro parks and natural areas levy 2016](#), Measure 26-178

¹² [Climate Smart Strategy](#), Section 2 Climate Smart Strategy Policies

¹³ [Metro parks and natural areas levy 2016](#), Measure 26-178

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 18-4866, FOR THE PURPOSE OF ADOPTING AN AGENDA FOR THE 2018 OREGON LEGISLATIVE SESSION

Date: January 11, 2018

Prepared by: Randy Tucker

BACKGROUND

The Metro Council has taken formal positions on legislation since its inception. The first such action taken by the Council was in Resolution No. 79-23 in which it took a position on SB 66, which dealt with economic development. Since that time, the Metro Council has taken formal and informal positions on legislation (state and federal) that it feels impacts the agency and the region.

The priorities and principles described in Exhibits A and B were developed by Randy Tucker (Legislative Affairs Manager) in consultation with the Metro Council. Most of the specific legislative issues described in Exhibit A have benefited from consultation with legislative liaisons and other staff in Metro departments. These issues were discussed with the Metro Council in work sessions that occurred on October 10 and December 14, 2017.

The legislative principles in Exhibit B were also discussed on October 10 and are essentially unchanged from the principles that were adopted prior to the 2017 legislative session after having been updated and amplified several times in recent years from principles adopted prior to previous sessions. Where applicable, these principles also reflect previously adopted Metro policy as embodied in the Regional Framework Plan.

As issues arise and develop during the 2018 legislative session, the Council will have the opportunity to take positions on specific pieces of legislation and to modify its agenda as it sees fit.

ANALYSIS/INFORMATION

1. **Known Opposition:** None.
2. **Legal Antecedents:** None applicable.
3. **Anticipated Effects:** Provide direction to Metro staff with respect to issues before the 2018 Oregon Legislature.
4. **Budget Impacts:** None.

RECOMMENDED ACTION

Staff recommends approval of Resolution No. 18-4866.

Agenda Item No. 4.2

Resolution No. 18-4863, For the Purpose of Approving the
Policy and Investment Framework for Cycle 6 of the 2040
Planning and Development Grant Program in 2018

Resolutions

Metro Council Meeting
Thursday, January 25, 2018
Metro Regional Center, Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF APPROVING THE	)	RESOLUTION NO. 18-4863
POLICY AND INVESTMENT FRAMEWORK)	
FOR CYCLE 6 OF THE 2040 PLANNING	)	Introduced by Chief Operating Officer Martha
AND DEVELOPMENT GRANT PROGRAM	)	Bennett in concurrence with Council
	)	President Tom Hughes

WHEREAS, in 2006, Metro adopted Ordinance No. 06-1115, establishing a construction excise tax (CET) to generate revenue for providing grants to local governments for regional and local planning; and

WHEREAS, the 2006 CET Ordinance contained a sunset provision based on a maximum amount collected of \$6.3 million, which amount was reached in 2009; and

WHEREAS, on recommendation of an advisory group and the Metro Chief Operating Officer (“COO”) regarding the continuing need for funding regional and local planning, on June 11, 2009 the Metro Council adopted Ordinance No. 09-1220, extending the CET for an additional five year period, with a sunset date of September 2014; and

WHEREAS, the CET has successfully raised approximately \$21.7 million in revenue that has been distributed by Metro to local governments through the Community Planning and Development Grant (“CPDG”) program for planning work across the region that otherwise could not have been funded; and

WHEREAS, on recommendation of an advisory group and the Metro COO, in June 2014 the Metro Council adopted Ordinance No. 14-1328, extending the CET for an additional five year period, with a new sunset date of December 31, 2020; and

WHEREAS, the 2014 CET Ordinance directed the Metro COO to propose amendments to the existing administrative rules implementing the CET and CPDG programs under Metro Code Chapter 7.04 (“Administrative Rules”) and to return to the Metro Council for its approval of the revised Administrative Rules prior to promulgating them; and

WHEREAS, on March 19, 2015 the Metro Council adopted Resolution No. 15-4595, which approved the Metro COO’s proposed amendments to the Administrative Rules; and

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

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

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

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

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

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

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

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

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

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

BE IT RESOLVED that:

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

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

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

Tom Hughes, Council President

Approved as to Form:

Alison R. Kean, Metro Attorney

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

Effective July 1, 2006, and extended through December 31, 2020, Metro has established as Metro Code Chapter 7.04 a Construction Excise Tax (“CET”) to fund Community Planning and Development Grants (“CPDG”). Effective April 1, 2017 the CPDG program shall be known as the 2040 Planning and Development Grant program (“2040 Grant” or “Grant”). These Administrative Rules establish the procedures for administering this tax as mandated in Metro Code Section 7.04.050 and Metro Code Section 7.04.060. These Administrative Rules also establish the procedures for administering the 2040 Grants. For ease of reference a copy of Metro Code Chapter 7.04 is attached to these administrative rules.

I. Metro Administrative Matters.

- A. Definitions. These administrative rules incorporate the definitions as set forth in Metro Code Section 7.04.030 of Chapter 7.04, Construction Excise Tax, and Chapter 3.07, the Urban Growth Management Functional Plan.
- B. Designated Representatives (Metro Code Section 7.04.060). The Metro Chief Operating Officer (“COO”) is responsible for the administration and enforcement of the Metro Code Chapter 7.04 and these administrative rules.
 - 1. The COO may delegate his authority in administration and enforcement of the Code chapter and these administrative rules as he determines and as set forth herein.
 - 2. The COO shall appoint a Hearings Officer(s), which appointment shall be confirmed by the Metro Council. The Hearings Officer(s) shall have the authority to order refunds or rebates of the Construction Excise Tax or waive penalties as a result of the hearings process. Upon appointing a Hearings Officer, the Chief Operating Officer shall delegate authority to the Hearings Officer to administer oaths, certify to all official acts, to subpoena and require attendance of witnesses at hearings to determine compliance with this chapter, rules and regulations, to require production of relevant documents at public hearings, to swear witnesses, to take testimony of any Person by deposition, and perform all other acts necessary to adjudicate appeals of Construction Excise Tax matters.
- C. Internal Flow of Funds. Funds will be accounted for in a Construction Excise Tax account that will be created by the effective date of Metro Code Chapter 7.04.
- D. Rate Stabilization Reserves. Metro Code Chapter 7.04.200 states that the Council will, each year, as part of the Budget process, create reserves from revenues generated by the CET. These reserves are to even out collections thereby stabilizing the funds needed to support the applicable programs despite industry building activity fluctuation. These reserves can only be drawn on to support the specific budgeted activities as discussed in Section I.E. of these administrative rules. Due to their restricted nature, these reserves shall be reported as designations of fund balance in Metro’s General Fund.
- E. Dedication of Revenues. Revenues derived from the imposition of this tax, netted after deduction of authorized local jurisdiction costs of collection and administration will be solely dedicated to grant funding of the regional and local planning that is required to make land ready for development after inclusion in the Urban Growth Boundary.
- F. Rule Amendment. The Chief Operating Officer retains the authority to amend these administrative rules as necessary for the administration of the Construction Excise Tax, after consultation with Metro Council.

II. Construction Excise Tax Administration.

A. Imposition of Tax (Metro Code Section 7.04.070).

1. The CET is imposed on every Person who engages in Construction within the Metro jurisdiction, unless an Exemption applies as set forth herein.
2. The tax shall be due and payable at the time of the issuance of any building permit, or installation permit in the case of a manufactured dwelling, by any building authority, unless an Exemption applies as set forth herein.
3. The CET shall be calculated and assessed as of the application date for the building permit. Persons obtaining building permits based on applications that were submitted prior to July 1, 2006 shall not be required to pay the CET, unless the building permit issuer normally imposes fees based on the date the building permit is issued.
4. If no permit is issued, then the CET is due at the time the first activity occurs that would require issuance of a building permit under the State of Oregon Building Code.

B. Calculation of Tax (Metro Code Section 7.04.080). The CET is calculated by multiplying the Value of New Construction by the tax rate of 0.12%

(0.0012 x Value of New Construction)

- a. In the case of a Manufactured Dwelling for which no Exemption is applicable, and for which there is no building code determination of valuation of the Manufactured Dwelling, the applicant's good faith estimate of the Value of New Construction for the Manufactured Dwelling shall be used.

C. Exemptions (Metro Code Section 7.04.040).

1. Eligibility for Exemption. No obligation to pay the CET is imposed upon any Person who establishes, as set forth below, that one or more of the following Exemptions apply:
 - a. The Value of New Construction is less than or equal to One Hundred Thousand Dollars (\$100,000); or
 - b. The Person who would be liable for the tax is a corporation exempt from federal income taxation pursuant to 42 U.S.C. 501(c)(3), or a limited partnership the sole general partner of which is a corporation exempt from federal income taxation pursuant to 42 U.S.C. 501(c)(3), the Construction is used for residential purposes AND the property is restricted to being occupied by Persons with incomes less than fifty percent (50%) of the median income for a period of 30 years or longer; or
 - c. The Person who would be liable for the tax is exempt from federal income taxation pursuant to 42 U.S.C. 501(c)(3) AND the Construction is dedicated for use for the purpose of providing charitable services to Persons with income less than fifty percent (50%) of the median income.

EXHIBIT A TO RESOLUTION NO. 18-4863

2. Procedures for Establishing and Obtaining an Exemption; Exemption Certificates:

- a. For exemption (a) above, the exemption will be established at the building permit counter where the Value of New Construction as determined in the building permit is less than or equal to One Hundred Thousand Dollars (\$100,000).
- b. For exemptions (b) and (c) above, prior to applying for a building permit a Person claiming an exemption may apply to Metro for a Metro CET Exemption Certificate, by presenting the appropriate documentation for the exemption as set forth herein, and upon receiving a Metro CET Exemption Certificate the Person may present the certificate to the building permit issuer to receive an exemption from paying the CET; or
- c. For exemptions (b) and (c) above, instead of going to Metro to obtain a Metro CET Exemption Certificate, a Person claiming an exemption from the CET when applying for a building permit may submit to the building permit issuer Metro's CET Exemption Certificate application form. Upon receiving a Person's Metro CET Exemption Certificate application, the building permit issuer shall preliminarily authorize the exemption and shall not collect the CET. The building permit issuer shall forward the Person's Metro CET Exemption Certificate application to Metro along with the quarterly CET report. It shall be Metro's responsibility to determine the validity of the exemption and to institute collection procedures to obtain payment of the CET, as well as any other remedy Metro may have under law, if the Person was not entitled to the exemption;
- d. To receive a Metro CET Exemption Certificate from Metro, or to substantiate to Metro the validity of an exemption received from a local building permit issuer, an applicant must provide the following:
 - i. IRS tax status determination letter evidencing that the Person seeking the building permit is exempt from federal income taxation pursuant to 42 U.S.C. 501(c)(3); and
 - ii. In the case of residential property, proof that the property is to be restricted to low income persons, as defined, for at least 30 years. Proof can be in the form of loan covenants; rental agreements or grant restrictions; a certification from the entity's corporate officer attesting that the exemption is applicable; or any other information that may allow the exemption determination to be made; and
 - iii. In the case of a qualified tax-exempt entity providing services to Persons with incomes less than 50 percent of the median income, the applicant must provide information that will allow such tax exempt status to be verified, and proof that the property will be restricted to such uses. Proof can be in the form of loan covenants; rental agreements or grant restrictions; certification from the entity's corporate officer attesting that the exemption is applicable; or any other information that may allow the exemption determination to be made; and
 - iv. In the case of a limited partnership with a tax-exempt sole general partner corporation, verification from the partnership's attorney of that status is required; and

EXHIBIT A TO RESOLUTION NO. 18-4863

- v. Authorization to audit the records to verify the legal status and compliance with Metro qualifications of all entities claiming exempt status.

- e. Partial Applicability of Exemption. If an exemption is applicable to only part of the Construction, then only that portion shall be exempt from the CET, and CET shall be payable for the remainder of the Construction that is not eligible for an exemption, on a pro-rata basis. It shall be the responsibility of the Person seeking the partial exemption to fill out a Metro CET Exemption Certificate application for the partial exemption, declaring on that application the proportion of the Construction qualifies for the exemption. Upon receiving a Person's Metro CET Exemption Certificate application claiming a partial exemption, the building permit issuer shall preliminarily authorize the partial exemption and shall only collect the pro-rata CET as declared by the applicant. The building permit issuer shall forward the Person's Metro CET Exemption Certificate application to Metro along with the quarterly CET report. It shall be Metro's responsibility to determine the validity of the partial exemption and to institute collection procedures to obtain payment of the remainder of the CET, as well as any other remedy Metro may have under law, if the Person was not entitled to the partial exemption.

D. Ceiling (Metro Code Section 7.04.045).

- 1. If the CET imposed would be greater than \$12,000.00 (Twelve Thousand Dollars) as measured by the Value of New Construction that would generate that amount of tax, then the CET imposed for that Construction is capped at a Ceiling of \$12,000.00 (Twelve Thousand Dollars).
- 2. The Ceiling applies on a single structure basis, and not necessarily on a single building permit basis. For example:
 - a. If a single building permit is issued where the Value of New Construction is greater than or equal to Ten Million Dollars (\$10,000,000), then the CET for that building permit is capped at Twelve Thousand Dollars (\$12,000.00).
 - b. If Construction in a single structure will require multiple building permits during the pendency of the CET program, and the total CET that would be imposed for those building permits would add up to more than Twelve Thousand Dollars (\$12,000.00), then the total CET for those building permits within the same structure during the pendency of the CET program is capped at Twelve Thousand Dollars (\$12,000.00). Once a total of \$12,000.00 has been paid in CET for a particular structure, then no additional CET will be collected for that structure during the pendency of the CET program.

E. Rebates (Metro Code Section 7.04.120). If a CET has been collected and a CET Exemption or the CET Ceiling was applicable, a rebate for the CET may be obtained from Metro.

- 1. Procedures for obtaining rebate are:
 - a. Within thirty (30) days of paying the CET, the Person who believes that the CET was not applicable due to a CET exemption or CET Ceiling, shall apply for a rebate in writing to Metro and provide verification that the exemption eligibility provisions of Metro Code Section 7.04.040, or that the CET Ceiling provisions of Metro Code Section 7.04.045, have been met. Failure to seek a rebate within the thirty (30) day

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time limit will terminate a Person's right to seek a rebate.

- b. Applicant shall provide proof that the CET was paid, in the form of a paid receipt from the building permit issuer showing the tax was paid. All supporting documentation for the exemption or ceiling shall be submitted at the time of the rebate claim. The rebate will only be made to the name that is listed on the receipt unless the applicant has a written assignment of rebate.
- c. A rebate or a letter of denial shall be issued by Metro within thirty (30) days of receipt of a written request for rebate provided that the request includes all required information. The rebate will be calculated based upon the paid receipt, less the five percent (5%) administrative fee already retained by the building permit issuer and the five percent (5%) Metro administration fee.

F. Refunds (Metro Code Section 7.04.150). If a CET has been collected and the Construction was not commenced and the building permit was cancelled, a refund for the CET may be obtained from Metro.

- 1. Eligibility is determined by the absence of Construction and cancellation of the building permit.
- 2. Procedures for obtaining refund:
 - a. Apply in writing to Metro within thirty (30) days of permit cancellation.
 - b. Provide copy of canceled permit.
 - c. Provide proof of payment of the tax in the form of the paid receipt.
 - d. A refund or a letter of denial shall be issued by Metro within thirty (30) days of receipt of the written request for refund provided that the request includes all required information. The refund will be calculated based upon the paid receipt, less the five percent (5%) administrative fee already retained by the building permit issuer and the five percent (5%) Metro administration fee.
 - e. Failure to seek a rebate within the thirty (30) day time limit will terminate a Person's right to receive a refund.

G. Appeals. The Hearings Officer shall conduct hearings related to enforcement or appeals of the CET. The appeal to the Hearings Officer must be:

- 1. In writing;
- 2. Made within ten (10) calendar days of denial of a refund, rebate, or exemption request. Notice of denial to the party denied, is deemed to have occurred three days after the mailing of the certified denial letter from Metro;
- 3. Tax must be paid prior to appeal;
- 4. Directed to the Office of Metro Attorney, who will contact the Hearings Officer to schedule a hearing upon receipt of a written appeal. The Hearings Officer will at that time provide further information as to what documentation to bring to the hearing.

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

I. CET Sunset (Metro Code Section 7.04.230).

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

III. **CET Collection Procedures.**

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

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

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of the tax collected by that local government. This payment is intended to be a reimbursement of costs incurred. Prior to submitting the CET to Metro, the local government shall deduct the remuneration agreed upon directly from the collected tax, and the amounts deducted and retained shall be identified on the report submitted to Metro.

4. Metro Administrative Fee. To partially reimburse Metro for its costs in implementing and administering the CET program, Metro will retain five percent (5%) of the net CET funds remitted by local governments to Metro.
 5. Audit and Control Features. Each local government shall allow the Chief Operating Officer, or any person authorized in writing by the Chief Operating Officer, to examine the books, papers, building permits, and accounting records relating to any collection and payment of the tax, during normal business hours, and may investigate the accuracy of reporting to ascertain and determine the amount of CET required to be paid.
 6. Failure to Pay. Upon a Person's refusal to or failure to pay the CET when due, the local government administering that Person's building permit shall notify Metro in writing within five (5) business days of such failure, with information adequate for Metro to begin collection procedures against that Person, including the Person's name, address, phone numbers, Value of New Construction, Construction Project, and building permit number. Upon a Person's refusal or failure to pay the CET, it shall be Metro's responsibility to institute collection procedures to obtain payment of the CET as well as any other remedy Metro may have under law.
- B. Metro Collection Procedures in Event of Non-payment. The CET is due and payable upon issuance of a building permit. It is unlawful for any Person to whom the CET is applicable to fail to pay all or any portion of the CET. If the tax is not paid when due, Metro will send a letter notifying the non-payer of his obligation to pay the CET along with the following information:
1. Penalty. In addition to any other fine or penalty provided by Chapter 7.04 of the Metro Code, penalty for non- payment will be added to the original tax outstanding. That penalty is equal to fifty dollars (\$50.00) or the amount of the tax owed, whichever is greater.
 2. Misdemeanor. In addition to any other civil enforcement, non- payment of the CET is a misdemeanor and shall be punishable, upon conviction, by a fine of not more than five hundred dollars (\$500.00). This fine shall be charged to any officer, director, partner or other Person having direction or control over any Person not paying the tax as due.
 3. Enforcement by Civil Action. If the tax is not paid, Metro will proceed with collection procedures allowable by law to collect the unpaid tax, penalties assessed and fines due, including attorney fees.

IV. Revenue Distribution (Metro Code Section 7.04.220).

A. Grant Cycles.

1. The Cycle 1 fund distribution took place in March 2006, which allocated up to \$6.3 million in grants. Grant requests in this cycle were made for planning only in new areas that were brought into the Urban Growth Boundary (UGB) between 2002 and 2005.
2. The Cycle 2 grant allocation through the Community Planning and Development Grant program (CPDG) took place in June 2010, which allocated up to \$3.7 million in CET Grant revenue. Grant requests in this cycle were made for planning in all areas inside the UGB as of December 2009.
3. The Cycle 3 grant allocation through the CPDG program took place in August 2013, which allocated \$4.5 million in grants. Grant requests in this cycle were made for planning in all areas that are in the UGB as of December 2009, plus areas added to the UGB since 2009 and Urban Reserves. This cycle earmarked fifty percent (50%) of projected CET revenues for planning in areas added to the UGB since 2009 and Urban Reserves, and required that if the amount of qualified Grant Requests for areas added to the UGB since 2009 and Urban Reserves does not equal or exceed the earmarked amounts, the remainder of funds may be allocated to Grant Requests for planning in other areas.
4. The Cycle 4 grant allocation through the CPDG program took place in 2015-2016 for planning in all areas that are in the UGB and Urban Reserves. This cycle earmarked seventy percent to seventy five percent (70% to 75%) of projected revenue for planning within the existing UGB, and earmark twenty five percent to thirty percent (25% to 30%) of projected revenue for concept planning and comprehensive planning for urban reserves and new urban areas, and required that if the amount of qualified Grant Requests for areas added to the UGB since 2009 and Urban Reserves did not equal or exceed the earmarked amounts, the remainder of funds may be allocated to Grant Requests for planning in other areas. A total of approximately \$4.7 million in grants was awarded. In 2016-17 an additional cycle of grants was conducted to support Equitable Housing Planning and Development projects. A total of \$575,000 in funding was awarded.
5. The Cycle 5 grant allocation took place in 2017-2018 for planning in all areas that are in the UGB and Urban Reserves. This cycle earmarked fifty percent (50%) of funding for equitable development projects, twenty-five percent (25%) of projected revenue for planning within the existing UGB, and twenty five percent (25%) of projected revenue for concept planning and comprehensive planning for urban reserves and new urban areas. A total of approximately \$1.99 million in grants was awarded.
6. The Cycle 6 grant allocation shall take place in 2018-2019 for planning in all areas that are in the UGB and Urban Reserves. This grant cycle shall earmark fifty percent (50%) of projected revenue for equitable development projects, twenty-five percent (25%) of projected revenue for planning within the existing UGB, and twenty five percent (25%) of projected revenue for concept planning and comprehensive planning for urban reserves and new urban areas, and require that if the amount of qualified Grant Requests for such projects does not equal or exceed the earmarked amounts, the remainder of funds may be allocated to Grant Requests for planning in other areas.

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7. The Cycle 7 grant allocation shall take place in 2019-2020 for planning in all areas that are in the UGB and Urban Reserves. The Metro Council shall determine in January 2019 how to best target program investments, but no less than twenty five percent (25%) of funding shall be earmarked for concept planning and comprehensive planning for urban reserves and new urban areas.
8. The Cycle 8 grant allocation shall take place in 2020-2021 for planning in all areas that are in the UGB and Urban Reserves. The Metro Council shall determine in January 2020 how to best target program investments, but no less than twenty five percent (25%) of funding shall be earmarked for concept planning and comprehensive planning for urban reserves and new urban areas.
9. These cycles may be delayed or amounts reduced if the actual CET receipts remitted by the local governments are not as high as projected, or if CET revenue projections are modified due to market conditions, or if required by Metro's spending cap limitations.
10. Metro may conduct additional allocation cycles if the Metro Chief Operating Officer finds that CET receipts are projected to exceed the grant amounts awarded in Cycles 5, 6, 7 and 8.

B. 2040 Grants Screening Committee.

1. Role. A 2040 Planning and Development Grants Screening Committee ("Committee") shall be created, which shall review Grant Requests submitted by local governments. The Committee shall advise and recommend to the Metro Chief Operating Officer ("COO") the ranking and recommended grant amounts, and whether to grant full, partial, or no awards, in accordance with the grant Evaluation Criteria set forth below.
2. Committee Members. The COO shall appoint six to nine members to the Committee, including the Committee Chair. A new Committee shall be established for Cycle 5, Cycle 6, Cycle 7 and Cycle 8 grants, but may include members from the previous Committees. Skill sets to be represented will be composed of the following expertise:
 - Economic development;
 - Urban planning;
 - Real estate and finance;
 - Infrastructure finance relating to development or redevelopment;
 - Local government;
 - Urban renewal and redevelopment;
 - Business and commerce;
 - Neighborhood Association or Community Planning Commission with an understanding of community livability issues; and
 - Environmental sustainability relating to development or redevelopment.
 - Social equity relating to community development and redevelopment planning

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

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

D. Grant Application Procedures

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

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

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

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

E. Grant Request Evaluation Criteria

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

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

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

F. Review of Grant Requests.

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

G. General Procedures for Entering into Grant Agreements.

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

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

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

H. General Procedures for Distribution of Grant Funds.

1. Grant Payments. Grant payments shall be made upon the completion of those milestones set forth in the IGA, as determined by Metro in accordance with the requirements of the Metro Code and the IGA. In general, a portion of the Grant funds may be distributed following execution of the IGA by Metro, with the remainder of the Grant being paid out as progress payments upon completion of the milestones in the IGA. Grantees shall submit progress reports to Metro documenting the milestone and the completed deliverables for grant payment.
2. Eligible Grant Expenses. The following expenses shall be considered eligible expenses for reimbursement with grant funds:
 - Materials directly related to project
 - Consultants' work and expenses on project
 - Grant applicant staff support directly related to project
 - Overhead directly attributable to project.
3. Ineligible Grant Expenses. Grant applications or requests to reimburse local governments for planning work contracted for or completed prior to execution of an approved Grant IGA shall not be considered.

STAFF REPORT

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

Date: January 11, 2018

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BACKGROUND

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

In 2014, the Metro Council adopted Ordinance No. 14-1328, which extended the CET through December 2020 and directed the Chief Operating Officer (COO) to seek direction from the Metro Council prior to revising the Administrative Rules for implementation of the CET and the Community Planning and Development Grants (CPDG). In 2015, the Metro Council adopted a resolution approving the Metro COO's amendments to the Administrative Rules.

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

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

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

Proposed Continuation of Equitable Development Investment Emphasis for Cycle 6

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

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

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

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

Proposed 2018 Administrative Rule Revisions

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

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

Additional administrative measures to advance racial equity

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

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

ANALYSIS/INFORMATION

1. Known Opposition

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

2. Legal Antecedents

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

3. Anticipated Effects

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

4. Budget Impacts

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

5. Attachments

Attachment 1: 2018 Revised Administrative Rules (clean version)

Attachment 2: 2018 Revised Administrative Rules (strikethrough version)

RECOMMENDED ACTION

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

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

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

Effective July 1, 2006, and extended through December 31, 2020, Metro has established as Metro Code Chapter 7.04 a Construction Excise Tax (“CET”) to fund Community Planning and Development Grants (“CPDG”). Effective April 1, 2017 the CPDG program shall be known as the 2040 Planning and Development Grant program (“2040 Grant” or “Grant”). These Administrative Rules establish the procedures for administering this tax as mandated in Metro Code Section 7.04.050 and Metro Code Section 7.04.060. These Administrative Rules also establish the procedures for administering the 2040 Grants. For ease of reference a copy of Metro Code Chapter 7.04 is attached to these administrative rules.

I. Metro Administrative Matters.

- A. Definitions. These administrative rules incorporate the definitions as set forth in Metro Code Section 7.04.030 of Chapter 7.04, Construction Excise Tax, and Chapter 3.07, the Urban Growth Management Functional Plan.
- B. Designated Representatives (Metro Code Section 7.04.060). The Metro Chief Operating Officer (“COO”) is responsible for the administration and enforcement of the Metro Code Chapter 7.04 and these administrative rules.
 - 1. The COO may delegate his authority in administration and enforcement of the Code chapter and these administrative rules as he determines and as set forth herein.
 - 2. The COO shall appoint a Hearings Officer(s), which appointment shall be confirmed by the Metro Council. The Hearings Officer(s) shall have the authority to order refunds or rebates of the Construction Excise Tax or waive penalties as a result of the hearings process. Upon appointing a Hearings Officer, the Chief Operating Officer shall delegate authority to the Hearings Officer to administer oaths, certify to all official acts, to subpoena and require attendance of witnesses at hearings to determine compliance with this chapter, rules and regulations, to require production of relevant documents at public hearings, to swear witnesses, to take testimony of any Person by deposition, and perform all other acts necessary to adjudicate appeals of Construction Excise Tax matters.
- C. Internal Flow of Funds. Funds will be accounted for in a Construction Excise Tax account that will be created by the effective date of Metro Code Chapter 7.04.
- D. Rate Stabilization Reserves. Metro Code Chapter 7.04.200 states that the Council will, each year, as part of the Budget process, create reserves from revenues generated by the CET. These reserves are to even out collections thereby stabilizing the funds needed to support the applicable programs despite industry building activity fluctuation. These reserves can only be drawn on to support the specific budgeted activities as discussed in Section I.E. of these administrative rules. Due to their restricted nature, these reserves shall be reported as designations of fund balance in Metro’s General Fund.
- E. Dedication of Revenues. Revenues derived from the imposition of this tax, netted after deduction of authorized local jurisdiction costs of collection and administration will be solely dedicated to grant funding of the regional and local planning that is required to make land ready for development after inclusion in the Urban Growth Boundary.
- F. Rule Amendment. The Chief Operating Officer retains the authority to amend these administrative rules as necessary for the administration of the Construction Excise Tax, after consultation with Metro Council.

II. Construction Excise Tax Administration.

A. Imposition of Tax (Metro Code Section 7.04.070).

1. The CET is imposed on every Person who engages in Construction within the Metro jurisdiction, unless an Exemption applies as set forth herein.
2. The tax shall be due and payable at the time of the issuance of any building permit, or installation permit in the case of a manufactured dwelling, by any building authority, unless an Exemption applies as set forth herein.
3. The CET shall be calculated and assessed as of the application date for the building permit. Persons obtaining building permits based on applications that were submitted prior to July 1, 2006 shall not be required to pay the CET, unless the building permit issuer normally imposes fees based on the date the building permit is issued.
4. If no permit is issued, then the CET is due at the time the first activity occurs that would require issuance of a building permit under the State of Oregon Building Code.

B. Calculation of Tax (Metro Code Section 7.04.080). The CET is calculated by multiplying the Value of New Construction by the tax rate of 0.12%

(0.0012 x Value of New Construction)

- a. In the case of a Manufactured Dwelling for which no Exemption is applicable, and for which there is no building code determination of valuation of the Manufactured Dwelling, the applicant's good faith estimate of the Value of New Construction for the Manufactured Dwelling shall be used.

C. Exemptions (Metro Code Section 7.04.040).

1. Eligibility for Exemption. No obligation to pay the CET is imposed upon any Person who establishes, as set forth below, that one or more of the following Exemptions apply:
 - a. The Value of New Construction is less than or equal to One Hundred Thousand Dollars (\$100,000); or
 - b. The Person who would be liable for the tax is a corporation exempt from federal income taxation pursuant to 42 U.S.C. 501(c)(3), or a limited partnership the sole general partner of which is a corporation exempt from federal income taxation pursuant to 42 U.S.C. 501(c)(3), the Construction is used for residential purposes AND the property is restricted to being occupied by Persons with incomes less than fifty percent (50%) of the median income for a period of 30 years or longer; or
 - c. The Person who would be liable for the tax is exempt from federal income taxation pursuant to 42 U.S.C. 501(c)(3) AND the Construction is dedicated for use for the purpose of providing charitable services to Persons with income less than fifty percent (50%) of the median income.

2. Procedures for Establishing and Obtaining an Exemption; Exemption Certificates:

- a. For exemption (a) above, the exemption will be established at the building permit counter where the Value of New Construction as determined in the building permit is less than or equal to One Hundred Thousand Dollars (\$100,000).
- b. For exemptions (b) and (c) above, prior to applying for a building permit a Person claiming an exemption may apply to Metro for a Metro CET Exemption Certificate, by presenting the appropriate documentation for the exemption as set forth herein, and upon receiving a Metro CET Exemption Certificate the Person may present the certificate to the building permit issuer to receive an exemption from paying the CET; or
- c. For exemptions (b) and (c) above, instead of going to Metro to obtain a Metro CET Exemption Certificate, a Person claiming an exemption from the CET when applying for a building permit may submit to the building permit issuer Metro's CET Exemption Certificate application form. Upon receiving a Person's Metro CET Exemption Certificate application, the building permit issuer shall preliminarily authorize the exemption and shall not collect the CET. The building permit issuer shall forward the Person's Metro CET Exemption Certificate application to Metro along with the quarterly CET report. It shall be Metro's responsibility to determine the validity of the exemption and to institute collection procedures to obtain payment of the CET, as well as any other remedy Metro may have under law, if the Person was not entitled to the exemption;
- d. To receive a Metro CET Exemption Certificate from Metro, or to substantiate to Metro the validity of an exemption received from a local building permit issuer, an applicant must provide the following:
 - i. IRS tax status determination letter evidencing that the Person seeking the building permit is exempt from federal income taxation pursuant to 42 U.S.C. 501(c)(3); and
 - ii. In the case of residential property, proof that the property is to be restricted to low income persons, as defined, for at least 30 years. Proof can be in the form of loan covenants; rental agreements or grant restrictions; a certification from the entity's corporate officer attesting that the exemption is applicable; or any other information that may allow the exemption determination to be made; and
 - iii. In the case of a qualified tax-exempt entity providing services to Persons with incomes less than 50 percent of the median income, the applicant must provide information that will allow such tax exempt status to be verified, and proof that the property will be restricted to such uses. Proof can be in the form of loan covenants; rental agreements or grant restrictions; certification from the entity's corporate officer attesting that the exemption is applicable; or any other information that may allow the exemption determination to be made; and
 - iv. In the case of a limited partnership with a tax-exempt sole general partner corporation, verification from the partnership's attorney of that status is required; and

v. Authorization to audit the records to verify the legal status and compliance with Metro qualifications of all entities claiming exempt status.

- e. Partial Applicability of Exemption. If an exemption is applicable to only part of the Construction, then only that portion shall be exempt from the CET, and CET shall be payable for the remainder of the Construction that is not eligible for an exemption, on a pro-rata basis. It shall be the responsibility of the Person seeking the partial exemption to fill out a Metro CET Exemption Certificate application for the partial exemption, declaring on that application the proportion of the Construction qualifies for the exemption. Upon receiving a Person's Metro CET Exemption Certificate application claiming a partial exemption, the building permit issuer shall preliminarily authorize the partial exemption and shall only collect the pro-rata CET as declared by the applicant. The building permit issuer shall forward the Person's Metro CET Exemption Certificate application to Metro along with the quarterly CET report. It shall be Metro's responsibility to determine the validity of the partial exemption and to institute collection procedures to obtain payment of the remainder of the CET, as well as any other remedy Metro may have under law, if the Person was not entitled to the partial exemption.

D. Ceiling (Metro Code Section 7.04.045).

1. If the CET imposed would be greater than \$12,000.00 (Twelve Thousand Dollars) as measured by the Value of New Construction that would generate that amount of tax, then the CET imposed for that Construction is capped at a Ceiling of \$12,000.00 (Twelve Thousand Dollars).
2. The Ceiling applies on a single structure basis, and not necessarily on a single building permit basis. For example:
 - a. If a single building permit is issued where the Value of New Construction is greater than or equal to Ten Million Dollars (\$10,000,000), then the CET for that building permit is capped at Twelve Thousand Dollars (\$12,000.00).
 - b. If Construction in a single structure will require multiple building permits during the pendency of the CET program, and the total CET that would be imposed for those building permits would add up to more than Twelve Thousand Dollars (\$12,000.00), then the total CET for those building permits within the same structure during the pendency of the CET program is capped at Twelve Thousand Dollars (\$12,000.00). Once a total of \$12,000.00 has been paid in CET for a particular structure, then no additional CET will be collected for that structure during the pendency of the CET program.

E. Rebates (Metro Code Section 7.04.120). If a CET has been collected and a CET Exemption or the CET Ceiling was applicable, a rebate for the CET may be obtained from Metro.

1. Procedures for obtaining rebate are:
 - a. Within thirty (30) days of paying the CET, the Person who believes that the CET was not applicable due to a CET exemption or CET Ceiling, shall apply for a rebate in writing to Metro and provide verification that the exemption eligibility provisions of Metro Code Section 7.04.040, or that the CET Ceiling provisions of Metro Code Section 7.04.045, have been met. Failure to seek a rebate within the thirty (30) day

time limit will terminate a Person's right to seek a rebate.

- b. Applicant shall provide proof that the CET was paid, in the form of a paid receipt from the building permit issuer showing the tax was paid. All supporting documentation for the exemption or ceiling shall be submitted at the time of the rebate claim. The rebate will only be made to the name that is listed on the receipt unless the applicant has a written assignment of rebate.
- c. A rebate or a letter of denial shall be issued by Metro within thirty (30) days of receipt of a written request for rebate provided that the request includes all required information. The rebate will be calculated based upon the paid receipt, less the five percent (5%) administrative fee already retained by the building permit issuer and the five percent (5%) Metro administration fee.

F. Refunds (Metro Code Section 7.04.150). If a CET has been collected and the Construction was not commenced and the building permit was cancelled, a refund for the CET may be obtained from Metro.

- 1. Eligibility is determined by the absence of Construction and cancellation of the building permit.
- 2. Procedures for obtaining refund:
 - a. Apply in writing to Metro within thirty (30) days of permit cancellation.
 - b. Provide copy of canceled permit.
 - c. Provide proof of payment of the tax in the form of the paid receipt.
 - d. A refund or a letter of denial shall be issued by Metro within thirty (30) days of receipt of the written request for refund provided that the request includes all required information. The refund will be calculated based upon the paid receipt, less the five percent (5%) administrative fee already retained by the building permit issuer and the five percent (5%) Metro administration fee.
 - e. Failure to seek a rebate within the thirty (30) day time limit will terminate a Person's right to receive a refund.

G. Appeals. The Hearings Officer shall conduct hearings related to enforcement or appeals of the CET. The appeal to the Hearings Officer must be:

- 1. In writing;
- 2. Made within ten (10) calendar days of denial of a refund, rebate, or exemption request. Notice of denial to the party denied, is deemed to have occurred three days after the mailing of the certified denial letter from Metro;
- 3. Tax must be paid prior to appeal;
- 4. Directed to the Office of Metro Attorney, who will contact the Hearings Officer to schedule a hearing upon receipt of a written appeal. The Hearings Officer will at that time provide further information as to what documentation to bring to the hearing.

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

I. CET Sunset (Metro Code Section 7.04.230).

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

III. CET Collection Procedures.

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

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

of the tax collected by that local government. This payment is intended to be a reimbursement of costs incurred. Prior to submitting the CET to Metro, the local government shall deduct the remuneration agreed upon directly from the collected tax, and the amounts deducted and retained shall be identified on the report submitted to Metro.

4. Metro Administrative Fee. To partially reimburse Metro for its costs in implementing and administering the CET program, Metro will retain five percent (5%) of the net CET funds remitted by local governments to Metro.
 5. Audit and Control Features. Each local government shall allow the Chief Operating Officer, or any person authorized in writing by the Chief Operating Officer, to examine the books, papers, building permits, and accounting records relating to any collection and payment of the tax, during normal business hours, and may investigate the accuracy of reporting to ascertain and determine the amount of CET required to be paid.
 6. Failure to Pay. Upon a Person's refusal to or failure to pay the CET when due, the local government administering that Person's building permit shall notify Metro in writing within five (5) business days of such failure, with information adequate for Metro to begin collection procedures against that Person, including the Person's name, address, phone numbers, Value of New Construction, Construction Project, and building permit number. Upon a Person's refusal or failure to pay the CET, it shall be Metro's responsibility to institute collection procedures to obtain payment of the CET as well as any other remedy Metro may have under law.
- B. Metro Collection Procedures in Event of Non-payment. The CET is due and payable upon issuance of a building permit. It is unlawful for any Person to whom the CET is applicable to fail to pay all or any portion of the CET. If the tax is not paid when due, Metro will send a letter notifying the non-payer of his obligation to pay the CET along with the following information:
1. Penalty. In addition to any other fine or penalty provided by Chapter 7.04 of the Metro Code, penalty for non- payment will be added to the original tax outstanding. That penalty is equal to fifty dollars (\$50.00) or the amount of the tax owed, whichever is greater.
 2. Misdemeanor. In addition to any other civil enforcement, non- payment of the CET is a misdemeanor and shall be punishable, upon conviction, by a fine of not more than five hundred dollars (\$500.00). This fine shall be charged to any officer, director, partner or other Person having direction or control over any Person not paying the tax as due.
 3. Enforcement by Civil Action. If the tax is not paid, Metro will proceed with collection procedures allowable by law to collect the unpaid tax, penalties assessed and fines due, including attorney fees.

IV. Revenue Distribution (Metro Code Section 7.04.220).

A. Grant Cycles.

1. The Cycle 1 fund distribution took place in March 2006, which allocated up to \$6.3 million in grants. Grant requests in this cycle were made for planning only in new areas that were brought into the Urban Growth Boundary (UGB) between 2002 and 2005.
2. The Cycle 2 grant allocation through the Community Planning and Development Grant program (CPDG) took place in June 2010, which allocated up to \$3.7 million in CET Grant revenue. Grant requests in this cycle were made for planning in all areas inside the UGB as of December 2009.
3. The Cycle 3 grant allocation through the CPDG program took place in August 2013, which allocated \$4.5 million in grants. Grant requests in this cycle were made for planning in all areas that are in the UGB as of December 2009, plus areas added to the UGB since 2009 and Urban Reserves. This cycle earmarked fifty percent (50%) of projected CET revenues for planning in areas added to the UGB since 2009 and Urban Reserves, and required that if the amount of qualified Grant Requests for areas added to the UGB since 2009 and Urban Reserves does not equal or exceed the earmarked amounts, the remainder of funds may be allocated to Grant Requests for planning in other areas.
4. The Cycle 4 grant allocation through the CPDG program took place in 2015-2016 for planning in all areas that are in the UGB and Urban Reserves. This cycle earmarked seventy percent to seventy five percent (70% to 75%) of projected revenue for planning within the existing UGB, and earmark twenty five percent to thirty percent (25% to 30%) of projected revenue for concept planning and comprehensive planning for urban reserves and new urban areas, and required that if the amount of qualified Grant Requests for areas added to the UGB since 2009 and Urban Reserves did not equal or exceed the earmarked amounts, the remainder of funds may be allocated to Grant Requests for planning in other areas. A total of approximately \$4.7 million in grants was awarded. In 2016-17 an additional cycle of grants was conducted to support Equitable Housing Planning and Development projects. A total of \$575,000 in funding was awarded.
5. The Cycle 5 grant allocation took place in 2017-2018 for planning in all areas that are in the UGB and Urban Reserves. This cycle earmarked fifty percent (50%) of funding for equitable development projects, twenty-five percent (25%) of projected revenue for planning within the existing UGB, and twenty five percent (25%) of projected revenue for concept planning and comprehensive planning for urban reserves and new urban areas. A total of approximately \$1.99 million in grants was awarded.
6. The Cycle 6 grant allocation shall take place in 2018-2019 for planning in all areas that are in the UGB and Urban Reserves. This grant cycle shall earmark fifty percent (50%) of projected revenue for equitable development projects, twenty-five percent (25%) of projected revenue for planning within the existing UGB, and twenty five percent (25%) of projected revenue for concept planning and comprehensive planning for urban reserves and new urban areas, and require that if the amount of qualified Grant Requests for such projects does not equal or exceed the earmarked amounts, the remainder of funds may be allocated to Grant Requests for planning in other areas.

7. The Cycle 7 grant allocation shall take place in 2019-2020 for planning in all areas that are in the UGB and Urban Reserves. The Metro Council shall determine in January 2019 how to best target program investments, but no less than twenty five percent (25%) of funding shall be earmarked for concept planning and comprehensive planning for urban reserves and new urban areas.
8. The Cycle 8 grant allocation shall take place in 2020-2021 for planning in all areas that are in the UGB and Urban Reserves. The Metro Council shall determine in January 2020 how to best target program investments, but no less than twenty five percent (25%) of funding shall be earmarked for concept planning and comprehensive planning for urban reserves and new urban areas.
9. These cycles may be delayed or amounts reduced if the actual CET receipts remitted by the local governments are not as high as projected, or if CET revenue projections are modified due to market conditions, or if required by Metro's spending cap limitations.
10. Metro may conduct additional allocation cycles if the Metro Chief Operating Officer finds that CET receipts are projected to exceed the grant amounts awarded in Cycles 5, 6, 7 and 8.

B. 2040 Grants Screening Committee.

1. Role. A 2040 Planning and Development Grants Screening Committee ("Committee") shall be created, which shall review Grant Requests submitted by local governments. The Committee shall advise and recommend to the Metro Chief Operating Officer ("COO") the ranking and recommended grant amounts, and whether to grant full, partial, or no awards, in accordance with the grant Evaluation Criteria set forth below.
2. Committee Members. The COO shall appoint six to nine members to the Committee, including the Committee Chair. A new Committee shall be established for Cycle 5, Cycle 6, Cycle 7 and Cycle 8 grants, but may include members from the previous Committees. Skill sets to be represented will be composed of the following expertise:
 - Economic development;
 - Urban planning;
 - Real estate and finance;
 - Infrastructure finance relating to development or redevelopment;
 - Local government;
 - Urban renewal and redevelopment;
 - Business and commerce;
 - Neighborhood Association or Community Planning Commission with an understanding of community livability issues; and
 - Environmental sustainability relating to development or redevelopment.
 - Social equity relating to community development and redevelopment planning

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

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

D. Grant Application Procedures

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

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

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

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

E. Grant Request Evaluation Criteria

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

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

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

F. Review of Grant Requests.

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

G. General Procedures for Entering into Grant Agreements.

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

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

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

H. General Procedures for Distribution of Grant Funds.

1. Grant Payments. Grant payments shall be made upon the completion of those milestones set forth in the IGA, as determined by Metro in accordance with the requirements of the Metro Code and the IGA. In general, a portion of the Grant funds may be distributed following execution of the IGA by Metro, with the remainder of the Grant being paid out as progress payments upon completion of the milestones in the IGA. Grantees shall submit progress reports to Metro documenting the milestone and the completed deliverables for grant payment.
2. Eligible Grant Expenses. The following expenses shall be considered eligible expenses for reimbursement with grant funds:
 - Materials directly related to project
 - Consultants' work and expenses on project
 - Grant applicant staff support directly related to project
 - Overhead directly attributable to project.
3. Ineligible Grant Expenses. Grant applications or requests to reimburse local governments for planning work contracted for or completed prior to execution of an approved Grant IGA shall not be considered.

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

Effective July 1, 2006, and extended through December 31, 2020, Metro has established as Metro Code Chapter 7.04 a Construction Excise Tax (“CET”) to fund Community Planning and Development Grants (“CPDG”). Effective April 1, 2017 the CPDG program shall be known as the 2040 Planning and Development Grant program (“2040 Grant” or “Grant”). These Administrative Rules establish the procedures for administering this tax as mandated in Metro Code Section 7.04.050 and Metro Code Section 7.04.060. These Administrative Rules also establish the procedures for administering the 2040 Grants. For ease of reference a copy of Metro Code Chapter 7.04 is attached to these administrative rules.

I. Metro Administrative Matters.

- A. Definitions. These administrative rules incorporate the definitions as set forth in Metro Code Section 7.04.030 of Chapter 7.04, Construction Excise Tax, and Chapter 3.07, the Urban Growth Management Functional Plan.
- B. Designated Representatives (Metro Code Section 7.04.060). The Metro Chief Operating Officer (“COO”) is responsible for the administration and enforcement of the Metro Code Chapter 7.04 and these administrative rules.
 - 1. The COO may delegate his authority in administration and enforcement of the Code chapter and these administrative rules as he determines and as set forth herein.
 - 2. The COO shall appoint a Hearings Officer(s), which appointment shall be confirmed by the Metro Council. The Hearings Officer(s) shall have the authority to order refunds or rebates of the Construction Excise Tax or waive penalties as a result of the hearings process. Upon appointing a Hearings Officer, the Chief Operating Officer shall delegate authority to the Hearings Officer to administer oaths, certify to all official acts, to subpoena and require attendance of witnesses at hearings to determine compliance with this chapter, rules and regulations, to require production of relevant documents at public hearings, to swear witnesses, to take testimony of any Person by deposition, and perform all other acts necessary to adjudicate appeals of Construction Excise Tax matters.
- C. Internal Flow of Funds. Funds will be accounted for in a Construction Excise Tax account that will be created by the effective date of Metro Code Chapter 7.04.
- D. Rate Stabilization Reserves. Metro Code Chapter 7.04.200 states that the Council will, each year, as part of the Budget process, create reserves from revenues generated by the CET. These reserves are to even out collections thereby stabilizing the funds needed to support the applicable programs despite industry building activity fluctuation. These reserves can only be drawn on to support the specific budgeted activities as discussed in Section I.E. of these administrative rules. Due to their restricted nature, these reserves shall be reported as designations of fund balance in Metro’s General Fund.
- E. Dedication of Revenues. Revenues derived from the imposition of this tax, netted after deduction of authorized local jurisdiction costs of collection and administration will be solely dedicated to grant funding of the regional and local planning that is required to make land ready for development after inclusion in the Urban Growth Boundary.
- F. Rule Amendment. The Chief Operating Officer retains the authority to amend these administrative rules as necessary for the administration of the Construction Excise Tax, after consultation with Metro Council.

II. Construction Excise Tax Administration.

A. Imposition of Tax (Metro Code Section 7.04.070).

1. The CET is imposed on every Person who engages in Construction within the Metro jurisdiction, unless an Exemption applies as set forth herein.
2. The tax shall be due and payable at the time of the issuance of any building permit, or installation permit in the case of a manufactured dwelling, by any building authority, unless an Exemption applies as set forth herein.
3. The CET shall be calculated and assessed as of the application date for the building permit. Persons obtaining building permits based on applications that were submitted prior to July 1, 2006 shall not be required to pay the CET, unless the building permit issuer normally imposes fees based on the date the building permit is issued.
4. If no permit is issued, then the CET is due at the time the first activity occurs that would require issuance of a building permit under the State of Oregon Building Code.

B. Calculation of Tax (Metro Code Section 7.04.080). The CET is calculated by multiplying the Value of New Construction by the tax rate of 0.12%

(0.0012 x Value of New Construction)

- a. In the case of a Manufactured Dwelling for which no Exemption is applicable, and for which there is no building code determination of valuation of the Manufactured Dwelling, the applicant's good faith estimate of the Value of New Construction for the Manufactured Dwelling shall be used.

C. Exemptions (Metro Code Section 7.04.040).

1. Eligibility for Exemption. No obligation to pay the CET is imposed upon any Person who establishes, as set forth below, that one or more of the following Exemptions apply:
 - a. The Value of New Construction is less than or equal to One Hundred Thousand Dollars (\$100,000); or
 - b. The Person who would be liable for the tax is a corporation exempt from federal income taxation pursuant to 42 U.S.C. 501(c)(3), or a limited partnership the sole general partner of which is a corporation exempt from federal income taxation pursuant to 42 U.S.C. 501(c)(3), the Construction is used for residential purposes AND the property is restricted to being occupied by Persons with incomes less than fifty percent (50%) of the median income for a period of 30 years or longer; or
 - c. The Person who would be liable for the tax is exempt from federal income taxation pursuant to 42 U.S.C. 501(c)(3) AND the Construction is dedicated for use for the purpose of providing charitable services to Persons with income less than fifty

percent (50%) of the median income.

2. Procedures for Establishing and Obtaining an Exemption; Exemption Certificates:

- a. For exemption (a) above, the exemption will be established at the building permit counter where the Value of New Construction as determined in the building permit is less than or equal to One Hundred Thousand Dollars (\$100,000).
- b. For exemptions (b) and (c) above, prior to applying for a building permit a Person claiming an exemption may apply to Metro for a Metro CET Exemption Certificate, by presenting the appropriate documentation for the exemption as set forth herein, and upon receiving a Metro CET Exemption Certificate the Person may present the certificate to the building permit issuer to receive an exemption from paying the CET; or
- c. For exemptions (b) and (c) above, instead of going to Metro to obtain a Metro CET Exemption Certificate, a Person claiming an exemption from the CET when applying for a building permit may submit to the building permit issuer Metro's CET Exemption Certificate application form. Upon receiving a Person's Metro CET Exemption Certificate application, the building permit issuer shall preliminarily authorize the exemption and shall not collect the CET. The building permit issuer shall forward the Person's Metro CET Exemption Certificate application to Metro along with the quarterly CET report. It shall be Metro's responsibility to determine the validity of the exemption and to institute collection procedures to obtain payment of the CET, as well as any other remedy Metro may have under law, if the Person was not entitled to the exemption;
- d. To receive a Metro CET Exemption Certificate from Metro, or to substantiate to Metro the validity of an exemption received from a local building permit issuer, an applicant must provide the following:
 - i. IRS tax status determination letter evidencing that the Person seeking the building permit is exempt from federal income taxation pursuant to 42 U.S.C. 501(c)(3); and
 - ii. In the case of residential property, proof that the property is to be restricted to low income persons, as defined, for at least 30 years. Proof can be in the form of loan covenants; rental agreements or grant restrictions; a certification from the entity's corporate officer attesting that the exemption is applicable; or any other information that may allow the exemption determination to be made; and
 - iii. In the case of a qualified tax-exempt entity providing services to Persons with incomes less than 50 percent of the median income, the applicant must provide information that will allow such tax exempt status to be verified, and proof that the property will be restricted to such uses. Proof can be in the form of loan covenants; rental agreements or grant restrictions; certification from the entity's corporate officer attesting that the exemption is applicable; or any other information that may allow the exemption determination to be made; and

- iv. In the case of a limited partnership with a tax-exempt sole general partner corporation, verification from the partnership's attorney of that status is required; and
 - v. Authorization to audit the records to verify the legal status and compliance with Metro qualifications of all entities claiming exempt status.
- e. Partial Applicability of Exemption. If an exemption is applicable to only part of the Construction, then only that portion shall be exempt from the CET, and CET shall be payable for the remainder of the Construction that is not eligible for an exemption, on a pro-rata basis. It shall be the responsibility of the Person seeking the partial exemption to fill out a Metro CET Exemption Certificate application for the partial exemption, declaring on that application the proportion of the Construction qualifies for the exemption. Upon receiving a Person's Metro CET Exemption Certificate application claiming a partial exemption, the building permit issuer shall preliminarily authorize the partial exemption and shall only collect the pro-rata CET as declared by the applicant. The building permit issuer shall forward the Person's Metro CET Exemption Certificate application to Metro along with the quarterly CET report. It shall be Metro's responsibility to determine the validity of the partial exemption and to institute collection procedures to obtain payment of the remainder of the CET, as well as any other remedy Metro may have under law, if the Person was not entitled to the partial exemption.

D. Ceiling (Metro Code Section 7.04.045).

- 1. If the CET imposed would be greater than \$12,000.00 (Twelve Thousand Dollars) as measured by the Value of New Construction that would generate that amount of tax, then the CET imposed for that Construction is capped at a Ceiling of \$12,000.00 (Twelve Thousand Dollars).
- 2. The Ceiling applies on a single structure basis, and not necessarily on a single building permit basis. For example:
 - a. If a single building permit is issued where the Value of New Construction is greater than or equal to Ten Million Dollars (\$10,000,000), then the CET for that building permit is capped at Twelve Thousand Dollars (\$12,000.00).
 - b. If Construction in a single structure will require multiple building permits during the pendency of the CET program, and the total CET that would be imposed for those building permits would add up to more than Twelve Thousand Dollars (\$12,000.00), then the total CET for those building permits within the same structure during the pendency of the CET program is capped at Twelve Thousand Dollars (\$12,000.00). Once a total of \$12,000.00 has been paid in CET for a particular structure, then no additional CET will be collected for that structure during the pendency of the CET program.

E. Rebates (Metro Code Section 7.04.120). If a CET has been collected and a CET Exemption or the CET Ceiling was applicable, a rebate for the CET may be obtained from Metro.

1. Procedures for obtaining rebate are:

- a. Within thirty (30) days of paying the CET, the Person who believes that the CET was not applicable due to a CET exemption or CET Ceiling, shall apply for a rebate in writing to Metro and provide verification that the exemption eligibility provisions of Metro Code Section 7.04.040, or that the CET Ceiling provisions of Metro Code Section 7.04.045, have been met. Failure to seek a rebate within the thirty (30) day time limit will terminate a Person's right to seek a rebate.
- b. Applicant shall provide proof that the CET was paid, in the form of a paid receipt from the building permit issuer showing the tax was paid. All supporting documentation for the exemption or ceiling shall be submitted at the time of the rebate claim. The rebate will only be made to the name that is listed on the receipt unless the applicant has a written assignment of rebate.
- c. A rebate or a letter of denial shall be issued by Metro within thirty (30) days of receipt of a written request for rebate provided that the request includes all required information. The rebate will be calculated based upon the paid receipt, less the five percent (5%) administrative fee already retained by the building permit issuer and the five percent (5%) Metro administration fee.

F. Refunds (Metro Code Section 7.04.150). If a CET has been collected and the Construction was not commenced and the building permit was cancelled, a refund for the CET may be obtained from Metro.

1. Eligibility is determined by the absence of Construction and cancellation of the building permit.
2. Procedures for obtaining refund:
 - a. Apply in writing to Metro within thirty (30) days of permit cancellation.
 - b. Provide copy of canceled permit.
 - c. Provide proof of payment of the tax in the form of the paid receipt.
 - d. A refund or a letter of denial shall be issued by Metro within thirty (30) days of receipt of the written request for refund provided that the request includes all required information. The refund will be calculated based upon the paid receipt, less the five percent (5%) administrative fee already retained by the building permit issuer and the five percent (5%) Metro administration fee.
 - e. Failure to seek a rebate within the thirty (30) day time limit will terminate a Person's right to receive a refund.

G. Appeals. The Hearings Officer shall conduct hearings related to enforcement or appeals of the CET. The appeal to the Hearings Officer must be:

1. In writing;
2. Made within ten (10) calendar days of denial of a refund, rebate, or exemption request. Notice of denial to the party denied, is deemed to have occurred three days after the mailing of the certified denial letter from Metro;
3. Tax must be paid prior to appeal;
4. Directed to the Office of Metro Attorney, who will contact the Hearings Officer to schedule a hearing upon receipt of a written appeal. The Hearings Officer will at that time provide further information as to what documentation to bring to the hearing.

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

I. CET Sunset (Metro Code Section 7.04.230).

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

III. CET Collection Procedures.

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

1. CET Report; Information Required. Each quarter (unless a local government prefers to report monthly), along with its CET remittance to Metro, the local government shall prepare and submit to the Metro Chief Operating Officer a report of the CETs and building permits issued for the previous quarter's construction activities. The report shall include: the

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

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

3. Enforcement by Civil Action. If the tax is not paid, Metro will proceed with collection procedures allowable by law to collect the unpaid tax, penalties assessed and fines due, including attorney fees.

IV. Revenue Distribution (Metro Code Section 7.04.220).

A. Grant Cycles. ~~CET funds collected pursuant to the 2014 extension of the CET shall be allocated in three new application assessment cycles (Cycle 4, Cycle 5 and Cycle 6).~~

1. The Cycle 1 fund distribution took place in March 2006, which allocated up to \$6.3 million in grants. Grant requests in this cycle were made for planning only in new areas that were brought into the Urban Growth Boundary (UGB) between 2002 and 2005.
2. The Cycle 2 grant allocation through the Community Planning and Development Grant program (CPDG) took place in June 2010, which allocated up to \$3.7 million in CET Grant revenue. Grant requests in this cycle were made for planning in all areas inside the UGB as of December 2009.
3. The Cycle 3 grant allocation through the CPDG program took place in August 2013, which allocated \$4.5 million in grants. Grant requests in this cycle were made for planning in all areas that are in the UGB as of December 2009, plus areas added to the UGB since 2009 and Urban Reserves. This cycle earmarked fifty percent (50%) of projected CET revenues for planning in areas added to the UGB since 2009 and Urban Reserves, and required that if the amount of qualified Grant Requests for areas added to the UGB since 2009 and Urban Reserves does not equal or exceed the earmarked amounts, the remainder of funds may be allocated to Grant Requests for planning in other areas.
4. The Cycle 4 grant allocation through the CPDG program took place in 2015-2016 for planning in all areas that are in the UGB and Urban Reserves. This cycle earmarked seventy percent to seventy five percent (70% to 75%) of projected revenue for planning within the existing UGB, and earmark twenty five percent to thirty percent (25% to 30%) of projected revenue for concept planning and comprehensive planning for urban reserves and new urban areas, and required that if the amount of qualified Grant Requests for areas added to the UGB since 2009 and Urban Reserves did not equal or exceed the earmarked amounts, the remainder of funds may be allocated to Grant Requests for planning in other areas. A total of approximately \$4.7 million in grants was awarded. In 2016-17 an additional cycle of grants was conducted to support Equitable Housing Planning and Development projects. A total of \$575,000 in funding was awarded.
5. The Cycle 5 grant allocation ~~shall take~~took place in 2017-2018 for planning in all areas that are in the UGB and Urban Reserves. This ~~grant allocation shall earmark cycle earmarked seventy-five percent (50%) of funding for equitable development projects, twenty-five to seventy-five percent (70% to 75%) of projected revenue for planning within the existing UGB, and earmark twenty five percent to thirty percent (25% to 30%) of projected revenue for concept planning and comprehensive planning for urban reserves and new urban areas, and require that if the amount of qualified Grant Requests for such projects does not equal or exceed the earmarked amounts, the remainder of funds may be allocated to Grant Requests for planning in other areas. A total of approximately \$1.99 million in grants was awarded.~~
6. The Cycle 6 grant allocation shall take place in 2018-2019 for planning in all areas that are in the UGB and Urban Reserves. This grant ~~allocation shall earmark cycle shall earmark fifty percent (50%) of projected revenue for equitable development projects, twenty-five percent (25%) of projected revenue for planning within the existing UGB, and twenty five percent (25%) of projected revenue for concept planning and comprehensive planning for~~

~~urban reserves and new urban areas, seventy percent to seventy five percent (70% to 75%) of projected revenue for planning within the existing UGB, and earmark twenty five percent to thirty percent (25% to 30%) of projected revenue for concept planning and comprehensive planning for urban reserves and new urban areas,~~ and require that if the amount of qualified Grant Requests for such projects does not equal or exceed the earmarked amounts, the remainder of funds may be allocated to Grant Requests for planning in other areas.

7. The Cycle 7 grant allocation shall take place in 2019-2020 for planning in all areas that are in the UGB and Urban Reserves. ~~-The Metro This Council shall determine in January 2019 how to best target program investments, but no less than grant allocation shall earmark seventy percent to seventy five percent (70% to 75%) of projected revenue for planning within the existing UGB, and earmark twenty five percent to thirty percent (25% to 30%) of projected revenue funding shall be earmarked for concept planning and comprehensive planning for urban reserves and new urban areas, and require that if the amount of qualified Grant Requests for such projects does not equal or exceed the earmarked amounts, the remainder of funds may be allocated to Grant Requests for planning in other areas.~~
8. The Cycle 8 grant allocation shall take place in 2020-2021 for planning in all areas that are in the UGB and Urban Reserves. ~~-The Metro This Council shall determine in January 2020 how to best target program investments, but no less than twenty five percent (25%) of funding shall be earmarked for concept planning and comprehensive planning for urban reserves and new urban areas. his grant allocation shall earmark seventy percent to seventy five percent (70% to 75%) of projected revenue for planning within the existing UGB, and earmark twenty five percent to thirty percent (25% to 30%) of projected revenue for concept planning and comprehensive planning for urban reserves and new urban areas, and require that if the amount of qualified Grant Requests for such projects does not equal or exceed the earmarked amounts, the remainder of funds may be allocated to Grant Requests for planning in other areas.~~
9. These cycles may be delayed or amounts reduced if the actual CET receipts remitted by the local governments are not as high as projected, or if CET revenue projections are modified due to market conditions, or if required by Metro's spending cap limitations.
10. Metro may conduct additional allocation cycles if the Metro Chief Operating Officer finds that CET receipts are projected to exceed the grant amounts awarded in Cycles 5, 6, 7 and 8.

B. 2040 Grants Screening Committee.

1. Role. A 2040 Planning and Development Grants Screening Committee ("Committee") shall be created, which shall review Grant Requests submitted by local governments. The Committee shall advise and recommend to the Metro Chief Operating Officer ("COO") the ranking and recommended grant amounts, and whether to grant full, partial, or no awards, in accordance with the grant Evaluation Criteria set forth below.
2. Committee Members. The COO shall appoint six to nine members to the Committee, including the Committee Chair. A new Committee shall be established for Cycle 5, Cycle 6, Cycle 7 and Cycle 8 grants, but may include members from the previous Committees. Skill sets to be represented will be composed of the following expertise:
 - Economic development;
 - Urban planning;
 - Real estate and finance;
 - Infrastructure finance relating to development or redevelopment;
 - Local government;
 - Urban renewal and redevelopment;
 - Business and commerce;

- Neighborhood Association or Community Planning Commission with an understanding of community livability issues; and
- Environmental sustainability relating to development or redevelopment.
- Social equity relating to community development and redevelopment planning

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

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

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

D. Grant Application Procedures

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

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

E. Grant Request Evaluation Criteria

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

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

F. Review of Grant Requests.

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

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

G. General Procedures for Entering into Grant Agreements.

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

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

~~3.2.~~

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

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

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

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

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

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

H. General Procedures for Distribution of Grant Funds.

1. Grant Payments. Grant payments shall be made upon the completion of those milestones set forth in the IGA, as determined by Metro in accordance with the requirements of the Metro Code and the IGA. In general, a portion of the Grant funds may be distributed following execution of the IGA by Metro, with the remainder of the Grant being paid out as progress payments upon completion of the milestones in the IGA. Grantees shall submit progress reports to Metro documenting the milestone and the completed deliverables for grant payment.
2. Eligible Grant Expenses. The following expenses shall be considered eligible expenses for reimbursement with grant funds:
 - Materials directly related to project
 - Consultants' work and expenses on project
 - Grant applicant staff support directly related to project
 - Overhead directly attributable to project.
3. Ineligible Grant Expenses. Grant applications or requests to reimburse local governments for planning work already contracted for or completed prior to execution of an approved Grant IGA shall not be considered.

Materials following this page were distributed at the meeting.



Metro

2040 Planning and Development Grants

January 25, 2018

Metro Council direction

WHAT WE HEARD	HOW WE HAVE RESPONDED
A. Continue to improve program performance	<ul style="list-style-type: none">• New approaches to IGA negotiations and consultant contracting now being implemented with Cycle 5 grants; more practical and measurable approach to evaluating grant performance; working to identify additional staff resources to provide technical assistance and project management
B. Continue communication of regional program outcomes and lessons learned	<ul style="list-style-type: none">• Continue to use MTAC and MPAC as discussion forums for project outcomes and best practices
C. Reflect Council policy emphasis on equity and housing in addition to other important 2040 goals.	<ul style="list-style-type: none">• Resolution 18-4863 will set the equitable development policy targets for this year's \$2 million in grant funds, and includes administrative rule adjustments that will help to support Metro's racial equity goals.

Administrative Rule Revisions:



- Section IV. A.5 has been revised to reflect the actual Cycle 5 grant awards made in 2017.
- Sections IV.A.6-8 have been revised to reflect the funding targets contained in Resolution 18-4863 and to clarify that targets for grant cycles 7 and 8 will be determined by Council prior to initiation of those grant cycles.
- Section IV.C has been revised to create a threshold eligibility requirement that all grant applications must advance and complement regional goals and policies expressed in the 2040 Growth Concept, the Urban Growth Management Functional Plan and the six desired outcomes of the Regional Framework Plan.
- Section IV. E.2. has been revised to include as an evaluation criteria that proposed projects will be evaluated on the extent to which the project supports Metro's established regional policy goal of advancing racial equity, in addition to the threshold policies and outcomes required in section IV.C.
- Section IV. G and H have been revised to reflect updated administrative procedures for entering into Intergovernmental Agreements , procurement and contracting with project consultants, and and to clarify expenses that are not eligible for reimbursements.

What we learned from cycle 5 funding targets



HOW POLICY TARGET WORKED

- Equitable development target did encourage specific integration of equity approaches into many proposals
- Investment target was essentially met with 49.5% of funds going to projects that had an emphasis on equitable development
- Some confusion regarding the definition of an equitable development project
- Some applicants seeking consideration in the equity category did not have a sufficiently strong equity emphasis

SUGGESTED IMPROVEMENTS

- Proposing similar policy for Cycle 6, that will again target 50% of total grant funds for projects with an emphasis on equitable development inside the UGB
- Including clearer examples of type of projects that could merit consideration in the equitable development category
- Metro staff will again recommend to the Grant Screening Committee which projects merit consideration in the equitable development category prior to forwarding the applications to the screening committee.

Equitable development definition:



EQUITABLE DEVELOPMENT PROJECTS MAY INCLUDE, BUT ARE NOT LIMITED TO:

- Planning or pre-development work for equitable housing (diverse, physically accessible, affordable housing choices with access to opportunities, services, and amenities);
- Planning or pre-development work for projects that will advance quality of life outcomes for communities of color, such as quality education, living wage employment, healthy environments, and transportation;
- Facilitation of development-related efforts in partnership with a community organization whose primary mission is to serve communities of color;
- Planning or pre-development for projects that will serve a specific neighborhood or geography with a high percentage of residents that are people of color;
- Planning for public and private developments, investments, programs and policies that will be enacted to meet the needs of communities of color and reduce racial disparities, taking into account past history and current conditions.



Metro

Consideration of the resolution

Metro

*600 NE Grand Ave.
Portland, OR 97232-2736
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Metro

Minutes

Thursday, January 18, 2018

2:00 PM

Metro Regional Center, Council chamber

Council meeting

1. Call to Order and Roll Call

Council President Tom Hughes called the Metro Council meeting to order at 2:01 p.m.

Present: 6 - Council President Tom Hughes, Councilor Sam Chase, Councilor Shirley Craddick, Councilor Craig Dirksen, Councilor Kathryn Harrington, and Councilor Bob Stacey

2. Public Communication

There was none.

3. Consent Agenda**Approval of the Consent Agenda**

A motion was made by Councilor Stacey, seconded by Councilor Harrington, to adopt items on the consent agenda. The motion passed by the following vote:

Aye: 6 - Council President Hughes, Councilor Chase, Councilor Craddick, Councilor Dirksen, Councilor Harrington, and Councilor Stacey

3.1 Resolution No. 18-4862, For the Purpose of Declaring a Vacancy in the Office of Metro Councilor for Council District No. 2, passed 01/04/18
Errata correcting date applications due

3.2 Consideration of the Council Meeting Minutes for January 4, 2018

4. Presentations**4.1 Payroll Audit**

Council President Hughes called on Metro Auditor Brian Evans to present the Payroll Audit. Auditor Evans provided a brief background on the audit, noting the primary objectives were to determine the reasons for payroll errors and if there were adequate controls to reduce the potential for fraud, waste, and abuse. Auditor Evans explained that while Metro had made efforts to improve the process and avoid errors, the audit made seven recommendations for further improvement, grouped into three categories:

- improve department coordination
- increase employee training
- align Metro's processes with best practices around fraud, waste, and abuse

Auditor Evans thanked finance staff for their assistance during the audit.

Council President Hughes introduced Mr. Scott Robinson, Deputy Chief Operating Officer, and Mr. Tim Collier, Director of Finance and Regulatory Services, to provide the management response to the audit. Mr. Robinson noted that Metro's support services were essential to the efficiency of the agency and emphasized their commitment to continuous improvement. He added that the support services team appreciated the opportunity to learn from the auditor's observations and recommendations. Mr. Collier provided an overview of work that was underway to address issues raised in the audit, including: clarifying roles, increasing payroll staffing, hiring consultants to review the system setup and implementing 61 setup improvements, and developing an error log. He thanked Auditor Evans for the audit and noted that payroll accuracy was of the utmost importance.

Council Discussion

Councilor Harrington asked about Exhibit 7 on page 16 of the audit. Auditor Evans clarified that the multiple union figures represented Metro's different unions, each with their own union dues. Councilor Stacey asked about responses that were underway and how they related to and affected the audit. Councilor Chase noted that it was

important to monitor how the agency was effectively and efficiently spending the public's dollars. He also asked about other jurisdictions' best practices in regards to payroll.

4.2 Social Media Audit

Council President Hughes called on Metro Auditor Brian Evans to present the Social Media Audit. Auditor Evans provided a brief background on the audit, noting the primary objective was to determine if Metro was using social media to achieve its communication goals. He introduced Ms. Simone Rede, Senior Management Auditor, to provide an overview of the audit's findings. Ms. Rede explained that the audit found improvements could be made in the following four areas:

- controlling access to Metro's social media sites
- addressing challenges social media presented to public records request requirements
- clarifying expectations for monitoring and responding to comments
- training employees who use social media

She then shared the audit's recommendations to make managing the risks and the use of social media more effective including: assign responsibility for social media governance, security and training; develop policies and procedures to increase social media security and limit administrative access; retain social media content that requires retention; increase two-way communication; broaden the audience Metro seeks to engage; and train employees who use Metro's social media sites. Auditor Evans thanked Communications staff for their assistance during the audit.

Council President Hughes introduced Mr. Scott Robinson, Deputy Chief Operating Officer, and Mr. Jim Middaugh, Director of Communications, to provide the management response to the audit. Mr. Middaugh provided an overview of the steps Communications staff had taken to respond to the issues raised in the audit, noting certain limitations. He added that Metro was also in compliance with public records law in terms of its social media. He thanked Auditor Evans for his work and noted that Communications staff intended to continue following best practices.

Council Discussion

Councilor Harrington thanked the auditor and his staff for performing the audits. She also recognized Metro's Communications staff for their creativity, innovation, and engagement.

4.3 Public Records Request Audit

Council President Hughes called on Metro Auditor Brian Evans to present the Public Records Request audit. Auditor Evans provided a brief background on the audit, noting the purpose of the audit was to evaluate the effectiveness of Metro's public record request process. He introduced Mr. Elliot Shuford, Senior Management Auditor, to provide an overview of the audit's findings. Mr. Shuford noted that the audit found that Metro's process to handle requests was generally effective and provided a foundation to comply with new regulations, but added that it also found improvements could be made in certain areas. Mr. Shuford explained that the audit recommended that Metro:

- update its policy to: set expectations for timely responses required by state law, clarify the criteria and process for determining whether a fee waiver is

appropriate, determine whether variations in the methodologies used to calculate fee estimates are appropriate, require each department or program to designate one or more lead employees for public records requests, and establish initial and ongoing training requirements.

- gradually increase proactive disclosure of public records by: collecting and reviewing information about what records are frequently requested or of high public interest and establishing a process for departments or programs to collaborate with records and information management to periodically assess opportunities to make additional records directly available to the public online.
- evaluate potential process efficiencies, including the remaining tasks from the previous process improvement effort.

Auditor Evans thanked Information Services staff for their help and assistance during the audit.

Council President Hughes introduced Mr. Scott Robinson, Deputy Chief Operating Officer, and Ms. Rachel Coe, Director of Information Services, to provide the management response to the audit. Mr. Robinson thanked the Auditor and his staff for their work, and highlighted that the audit found Metro's process to be generally effective. He also recognized that in all cases reviewed, staff made attempts to fulfill record requests and in most cases did so in a timely fashion.

Ms. Coe stated that transparency in government was key to

engendering the public's trust. She addressed the audit's recommendations and highlighted how staff would work to meet them. She also noted that Metro's public record policy had been recently updated to be in compliance with the new state requirements and thanked Auditor Evans for his work.

Council Discussion

Councilor Dirksen stated that ideally public records would always be available proactively, but noted that there were certain instances when being able to provide requestors with an idea of the cost was also important. He thanked staff for their work on the audit. Councilor Craddick asked how Metro could be more proactive with its records accessibility. Councilor Harrington emphasized her support for how open, accessible, and transparent Oregon's governments were. She asked about other jurisdictions that were reviewed as part of the audit.

5. Chief Operating Officer Communication

Ms. Martha Bennett announced that Metro's Powell-Division Transit and Development project team had received an award for outstanding achievement in public engagement. She also highlighted Metro's upcoming small business open house at the Oregon Convention Center on February 21.

6. Councilor Communication

Councilors provided updates on the following meetings or events: the Community Enhancement program kick-off, the Joint Policy Advisory Committee on Transportation (JPACT), and the Regional Leadership Forum #4 on March 2. Councilors also expressed their condolences over the death of Mr. Mike Dewey of Waste Management, Inc.

7. Adjourn

There being no further business, Council President Hughes adjourned the Metro Council meeting at 3:20 p.m. The Metro Council will convene the next regular council meeting on January 25 at 2:00 p.m. at the Metro Regional Center in the council chamber.

Respectfully submitted,



Nellie Papsdorf, Legislative and Engagement Coordinator

ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF JANUARY 18, 2018

ITEM	DOCUMENT TYPE	DOC DATE	DOCUMENT DESCRIPTION	DOCUMENT No.
3.2	Minutes	01/04/18	Council Meeting Minutes for January 4, 2018	011818c-01