

Council work session agenda

Tuesday, April 3, 2018

2:00 PM

Metro Regional Center, Council Chamber

2:00 Call to Order and Roll Call

2:05 Chief Operating Officer Communication

2:10 Work Session Topics:

2:10 Status of Levee Ready Columbia Recertification Process [18-4990](#)

Presenter(s): Andy Cotugno, Metro
Jim Middaugh, Metro

Attachments: [Work Session Worksheet](#)
[What's at Risk - Assets Protected by the Levee System](#)
[Known Deficiencies Map](#)

2:40 Investment and Innovation Grant Guidelines [18-4989](#)

Presenter(s): Paul Slyman, Metro
Kevin Six, Metro

Attachments: [Work Session Worksheet](#)
[Draft Investment and Innovation Guidelines](#)
[Staff Comments on Draft Grant Guidelines](#)

3:40 Councilor Liaison Updates and Council Communication

3:50 Adjourn

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

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Status of Levee Ready Columbia Recertification Process

Work Session Topics

Metro Council Work Session
Tuesday, April 3, 2018
Metro Regional Center, Council Chamber

METRO COUNCIL

Work Session Worksheet

PRESENTATION DATE: April 3, 2018

LENGTH: 30 minutes

PRESENTATION TITLE: Status of Levee Ready Columbia Recertification Process; Council Input on Governance Options

DEPARTMENT: Office of the COO

PRESENTER(S): Andy Cotugno and Jim Middaugh

WORK SESSION PURPOSE & DESIRED OUTCOMES

- Purpose: Provide the Metro Council a status report on the Levee Ready Columbia recertification and accreditation process under the FEMA National Flood Insurance Program and the US Army Corps of Engineers Rehabilitation and Inspection Program.
- Outcome: Council guidance to Councilor Craddick and staff on preferred governance options to pursue.

TOPIC BACKGROUND & FRAMING THE WORK SESSION DISCUSSION

The Columbia Corridor from the railroad berm west of The Expo Center to the Sandy River is protected from flooding by a levee system (see Attachment A for a description of the key assets protected by the levee system, including several key Metro facilities). The levees and pumps that provide flood protection are operated by four independent drainage districts. While continuing to function properly, their certification status has lapsed under the FEMA National Flood Insurance Program. The Levee Ready Columbia process was initiated to provide a collaborative forum of stakeholders to determine the extent of repairs that may be needed to ensure accreditation and the best governance and funding approach for implementing the needed repairs and provide for the ongoing operations and maintenance.

It is critical to re-certify to maintain accreditation under the FEMA program both to provide the insurance for property damage in the event of a flood and to ensure FEMA continues to classify the area as if it is not in a floodplain on their Flood Insurance Rate Maps. In the event FEMA reclassified the area as if it were in a floodplain, properties would be subject to significantly more stringent development standards and property owners would be unable to obtain flood insurance and financing for development. The project also ensures that the levee system is active in the US Army Corps of Engineers Rehabilitation and Inspection Program which provides Corps assistance during and as a result of a flooding incident (see Attachment B for a summary of the conditions of the levee system).

While the consultants were conducting their engineering evaluation of the levee system, the Levee Ready Columbia partners turned their attention to governance and funding options. They have concluded that the status quo is severely inadequate to continue as the funding and governance model. In particular:

- Operation as four independent districts is extremely inefficient. The status quo governance is very fragmented and relies upon a high level of intergovernmental cooperation. While

the current Levee Ready Columbia process has fostered a high level of collaboration, that may not exist under conditions of stress and with leadership turnover.

- Federal flood management requirements are expected to evolve over time and the current structure cannot readily adapt to these new requirements.
- Stormwater from the Columbia Slough watershed and Salmon Creek and its tributaries drain into the flood managed area requiring pumping into the Columbia River. As a result of this impact, there may be an argument that a financial contribution from this broader watershed should be implemented to cover their share of the cost of the stormwater drainage and pumping system within the flood managed area.
- Significant benefit is realized throughout the region and state as a result of the goods and services provided within the flood managed area (especially Portland International Airport). As a result of this benefit, the Partners have concluded that there should be some form of financial contribution from the broader area rather than have the full cost born by strictly the properties within the flood managed area. This could take the form of bonds levied within Multnomah County, Metro, the Port of Portland and/or the State of Oregon.
- The current fee assessment basis is largely tied to acreage rather than some basis more closely related to the incidence of cost responsibility or benefit (such as impervious surface or flood damage avoidance).
- The fees are collected through the Multnomah County property tax system and are subject to compression. The effect of compression is that like properties are assessed fee amounts that are very different. In addition, under the law, unlike property taxes, the drainage districts can increase their fees to compensate for revenue loss due to compression, resulting in an even greater disparity between those properties under compression and those not. In addition, this increase simply results in a reduction in property tax collections from all other taxing districts. The Partners have concluded that it would be preferable to establish a utility fee system (like the water and sewer bill) that is levied independent of the property tax system.
- The Partners have examined a wide range of governance models including:
 - Options under Metro's structure;
 - Options under the Port of Portland's structure;
 - Options under Multnomah County's structure;
 - Options under the City of Portland Bureau of Environmental Services structure;
 - Options as a limited flood management function or an integrated flood management and stormwater management function;
 - Options as an integrated agency responsible for Capital funding and Operations and Maintenance (O&M) funding or as an O&M funding base tied to the managed flood area with capital funding from a broader area of benefit;
 - Options to form a new dedicated flood management utility district either through an intergovernmental agreement between the four cities (A Section 190 agency), or through formation of a Water Improvement District by Multnomah County with subsequent voter referral as provided by current state law or through a request to

the State Legislature to form a district.

In either case, it is envisioned that the geographic area of the new District would be Multnomah County within the UGB. The Section 190 agency would be through an IGA approved by the four cities and have a board of directors appointed by the four cities. The Water Improvement District would be formed by an action of the Multnomah County Commission with a likely referral to the voters and have a board of directors approved by the voters. Both forms would have the authority to collect utility fees but general obligation bonds and property taxes could only be approved by the voters of the Water Improvement District (not the Section 190 agency). As a result, if general obligation bonds or property taxes were to be needed for capital funding, they would be the responsibility of the cities to provide within their property taxing structure.

While there are many steps ahead before implementation is realized, the Partners have concluded that the option that provides the most appropriate approach to governance and funding is through establishment of a new consolidated special district (through one of the approaches described above) with O&M funding tied to a utility fee focused on the managed flood area and perhaps the surrounding watershed and capital funding from the broader county or regional area. Before implementation, there will need to be further work carried out to define the costs to be funded (capital and O&M), the details of the utility fee assessments, the composition of the Board of Directors, an assessment of public attitudes, acceptance by the existing four drainage district Boards and assurances that the approach will have the acceptance of the US Army Corps of Engineers and FEMA.

QUESTIONS FOR COUNCIL CONSIDERATION

- Is the Council supportive of a governance option through establishment of a new agency rather than through an existing agency/jurisdiction?
- Does the Council agree with the conclusion to shift the funding model from a system tied to property taxes to one tied to utility fees and to recognize the need for a financial contribution tied to the benefits realized by the broader region?
- Of the two approaches for formation of a new agency, does the Council have a preference?

PACKET MATERIALS

- Would legislation be required for Council action? ☐ Yes ☒ No
- If yes, is draft legislation attached? N.A.
- What other materials are you presenting today?
 - Attachment A: Assets protected by the levee system along the Columbia Corridor
 - Attachment B: DRAFT Summary of known deficiencies requiring remediation. Final Conditions Assessments will be completed May 2018.

WHAT'S AT RISK

The risk of flooding on the Lower Columbia River is real and the stakes are high. An uncontrolled 100-year flood in the leveed area would affect 7,400 people and 48,000 jobs. The costs of damages would be in the billions: \$6.2 billion in building damages and \$1.75 billion of wages lost in the first year. Recovery and reconstruction would take years.



Jobs & Economy



\$16 billion
ECONOMIC ACTIVITY
Annually



50%
Region's manufacturing
& warehouse jobs



18.4 million
PASSENGERS
Annually at PDX



3 INTERSTATES



2 RAILROADS



2 AIRPORTS



One
NATURAL GAS PIPELINE



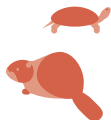
\$7.3 billion
PROPERTY VALUE

Drinking Water



#2 LARGEST SOURCE
OF DRINKING
WATER IN OREGON
#1- Bull Run Reservoir

Nature & Habitat



Western Painted Turtle
Western Pond Turtle
Beaver
Streaked Horned Lark



175 SPECIES
Birds in the watershed



1.4 million
TREES AND SHRUBS
Planted along entire
slough by City of
Portland and Partners

Recreation & Culture



OVER
2,000 ACRES
Parks, open spaces, and
recreational including
Gleason and Chinook
Landing Boat Ramps
Blue Lake Park



17 MILES
Marine Drive
multi-use
path



7,400
Residents served



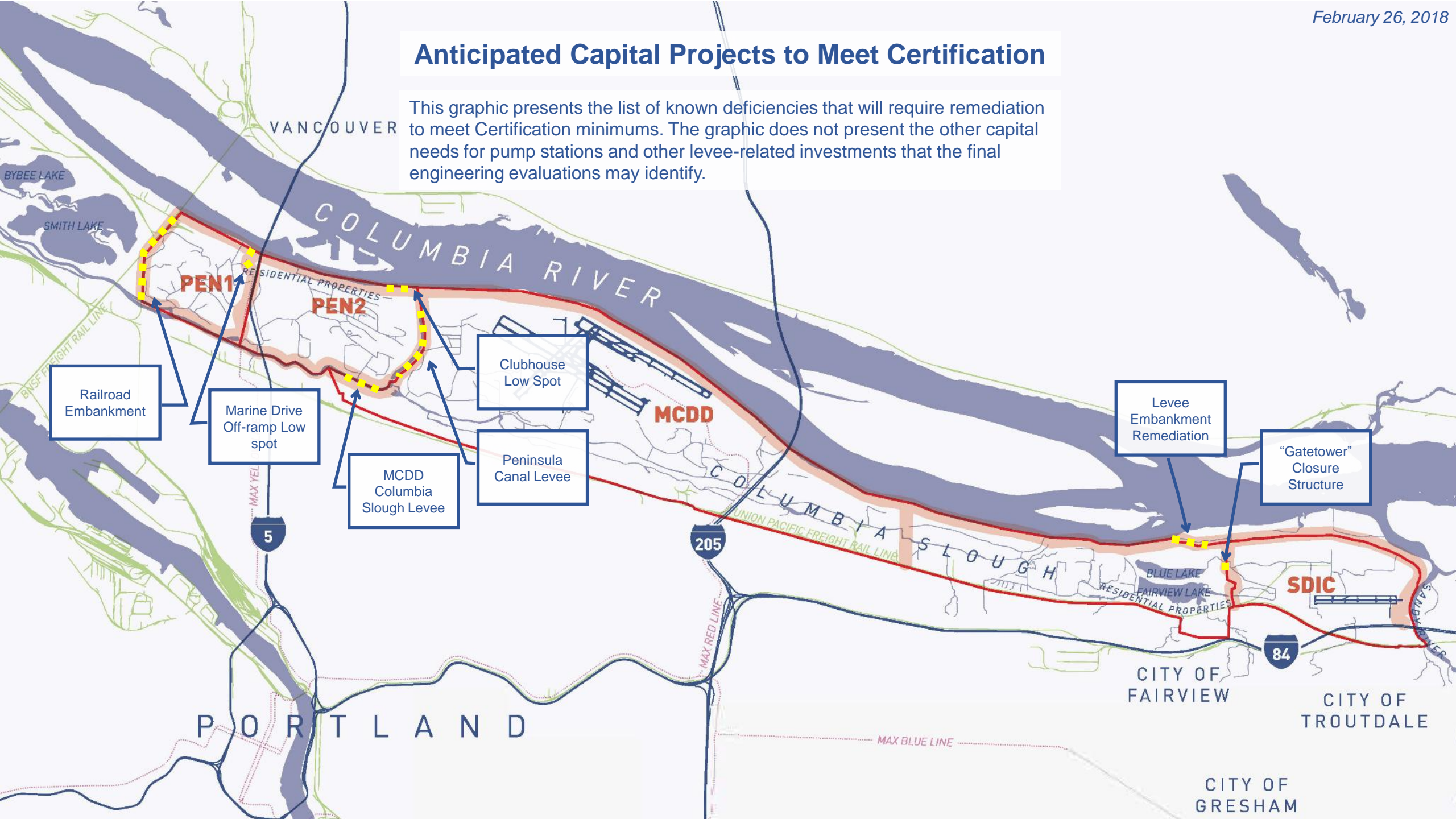
15 MILES
Water trails for
canoes and kayaks



Ikea
Walmart
Target
Lowe's
HomeDepot

Anticipated Capital Projects to Meet Certification

This graphic presents the list of known deficiencies that will require remediation to meet Certification minimums. The graphic does not present the other capital needs for pump stations and other levee-related investments that the final engineering evaluations may identify.



Investment and Innovation Grant Guidelines

Work Session Topics

Metro Council Work Session
Tuesday, April 3, 2018
Metro Regional Center, Council Chamber

METRO COUNCIL

Work Session Worksheet

PRESENTATION DATE: April 3, 2018

LENGTH: 30 minutes

PRESENTATION TITLE: Investment and Innovation Grant Guidelines

DEPARTMENT: Property and Environmental Services

PRESENTER(S): Paul Slyman, 503-797-1510, paul.slyman@oregonmetro.gov
Kevin Six, 503-797-1672, kevin.six@oregonmetro.gov

WORK SESSION PURPOSE & DESIRED OUTCOMES

- Purpose: To discuss and receive Council feedback on the draft guidelines for the Investment and Innovation Grants.
- Outcome: Council input on the guidelines.

TOPIC BACKGROUND & FRAMING THE WORK SESSION DISCUSSION

Metro has authority and responsibility to plan, manage, and oversee the regional garbage and recycling system. The functions of this system are implemented by Metro, cities and counties, and many private for-profit businesses and non-profit organizations. This sharing of responsibilities means that Metro has a strong interest in the success of the private sector at meeting system needs to create, expand, preserve, and broaden efforts that advance waste prevention, reuse, recycling, composting and energy recovery.

Last year, Metro Council asked the Property and Environmental Services Department (PES) staff to research and propose a program through which Metro could invest in the region's garbage and recycling industry to strengthen the system and support new ideas and technologies to achieve greater reuse and recycling of waste. It is also the intent of this program to advance progress towards the goals and outcomes of Metro's *Strategic plan to advance racial equity, diversity and inclusion*, adopted by the Metro Council in June 2016.

Metro staff discussed a concept for a grant program at the Council work session on Oct. 31, 2017, and on Dec. 14, 2017, the Council passed Ordinance No. 17-1415 amending Metro Code Chapter 5.04 and creating the Solid Waste Investment and Innovation grants.

In this work session, staff will present the draft Investment and Innovation Grant guidelines, as well as the public comments received on the draft. The guidelines establish the objectives, governance and other parameters that will be used to implement the grant program. The project concept discussed last year, the approved code language and these guidelines were developed from best practices research that included review and discussion with grant or loan program managers from:

- Metro's Transit Oriented Development, Community Placemaking, Nature in Neighborhoods and Community Enhancement programs
- Energy Trust of Oregon
- Oregon Dept. of Environmental Quality Materials Management
- Business Oregon
- Prosper Portland
- Indiana Recycling Market Development Program
- California Department of Resources Recycling and Recovery (CalRecycle)

- North Carolina Recycling Business Assistance Center
- Minnesota Pollution Control Agency
- Massachusetts Recycling Business Development

The guidelines are also informed by interviews staff conducted last year with representatives of eight businesses or non-profits that were typical of the types of organizations that Metro would either want to attract as grant applicants or whose specialized knowledge could help make our program better:

- A large non-profit involved in reuse
- A small, volunteer run organization involved in waste prevention
- A consultant/project developer
- Three types of facilities that process recyclables
- A company that uses processed recyclables to create feedstock for manufacturers
- A company that recovers energy from discards

Additionally, the guidelines are informed by lessons learned from Metro's previous efforts to financially assist private garbage and recycling projects. We learned that those efforts failed in large part because they focused on loans, rather than grants, and because they overwhelmed applicants with process and paperwork requirements.

The Metro Council's input at this work session will be used by staff to finalize the guidelines and move towards the first grant solicitation this summer.

QUESTIONS FOR COUNCIL CONSIDERATION

- What are Councilors' thoughts on the grant match requirements? Are they adequate to protect the public's interest, while also not representing an impediment to applicants?
- Do Councilors have any questions about staff's responses to the received public comments?
- Do Councilors have any additional guidance or suggestions that staff should incorporate in the guidelines?

PACKET MATERIALS

- Would legislation be required for Council action ☐ Yes ☒ No
- If yes, is draft legislation attached? ☐ Yes ☒ No
- What other materials are you presenting today?
 Metro Solid Waste Draft Investment and Innovation Guidelines
 Metro staff comments on Draft Grant Guidelines

Investment and Innovation Grants

Draft Guidelines

1) PURPOSE

Metro is committed to working with the residents and businesses of the region to manage and reduce the environmental impacts associated with the goods we all consume. The Investment and Innovation Grants, established in Metro Code Chapter 5.04, aim to do this by stimulating investment by private for-profit businesses and not-for-profit organizations to create, expand, preserve, and broaden efforts that advance waste prevention, reuse, recycling, composting, and energy recovery in the Metro region. The grants will advance Metro's progress towards achieving both its Regional Waste Plan and diversity, equity, and inclusion goals.

2) OBJECTIVES

Projects funded by these grants are intended to:

- a) Strengthen the region's system for processing and recovering recyclable materials, with an emphasis on those materials for which there is the greatest environmental benefit from recycling or energy recovery.
- b) Strengthen the region's waste prevention efforts.
- c) Strengthen the region's reuse services and infrastructure.
- d) Strengthen the region's composting infrastructure.
- e) Strengthen the region's energy recovery infrastructure for materials that cannot be recycled.
- f) Encourage innovation and advance new technology in waste prevention, reuse, recycling, composting, and energy recovery.
- g) Encourage new participants in the region's waste prevention, reuse, recycling, and energy recovery system who are from communities of color or other historically underrepresented groups.

3) GOVERNANCE

a) Code

Metro Code Chapter 5.04 Investment and Innovation Program, provides the general structure for a program that invests public resources to create, expand, improve, preserve, and diversify efforts that advance waste prevention, reuse, recycling, composting, and energy recovery consistent with Metro's Regional Waste Plan and Metro's diversity, equity, and inclusion goals.

b) Metro Council

The Metro Council will:

- i) Assign a Metro Councilor to participate in project funding decisions and serve as a member of the Investment and Innovation Grant Committee.

- ii) Review Investment and Innovation Grant Program Seven-Day Notices issued by the Metro Chief Operating Officer to inform the Metro Council of project funding decisions. The Metro Council will have seven days from the date of the notice to request a Metro Council briefing or bring the matter forward for formal Metro Council action. The funding decision becomes final seven days after the date the notice was issued if no Councilor requests it be presented to the full Metro Council for review. The Metro Council may allow the decision to stand, send the decision back for reconsideration, or take formal action to deny or approve the decision.
- iii) Adopt the Investment and Innovation Grants operating budget and annual grant funds as part of Metro's budgeting process.
- c) The Metro Chief Operating Officer (COO)

The COO will conduct all activities set forth in these guidelines, including policy implementation, program administration, and financial oversight of the Investment and Innovation grants.

The COO will:

 - i) Provide the Metro Council with Investment and Innovation Seven-day Notices to inform the Metro Council of project funding decisions.
 - ii) Appoint Investment and Innovation Grant Committee members, who may include:
 - (a) One Metro Property and Environmental Services manager or program director to serve as chair.
 - (b) One Metro Councilor, as designated by the Metro Council President and confirmed by the Metro Council.
 - (c) Two or three government agency representatives.
 - (d) One citizen representative from an underserved or underrepresented community.
 - (e) One citizen representative from a non-solid waste related business.
- d) The Property and Environmental Services Director may:
 - i) Select a priority project emphasis on annual basis.
 - ii) Determine a target amount of funding available for each category of grants offered.
 - iii) Review and approve, modify or reject Grant Committee recommendations.
- e) The Grant Committee will:
 - i) Evaluate and score applications based on the published criteria.
 - ii) Make recommendations to the Property and Environmental Services Director on project funding.

4) METRO REPORTING

Metro staff will produce an annual report documenting the types and amounts of grants awarded. That report will be presented to the Metro Council and published on the Metro website.

5) PROGRAM DURATION

The initial duration of the Investment and Innovation Grant program will be three fiscal years, beginning on July 1, 2018, and ending on June 30, 2021. In the third year, staff will evaluate the program and make a recommendation to the Metro Council on whether it should continue to fund the program.

6) FUNDING GUIDELINES

a) Eligible Applicant

- i) Non-profit organization with a federal 501(c) tax designation.
- ii) For-profit business.

b) General Eligibility Requirements

- i) An applicant must be in compliance with local, state, and federal requirements applicable to its operations.
- ii) An applicant must demonstrate that it has matching funds or other contributions to share in the cost of the project. Details on the matching requirement are provided in the “Grant Categories” section below.
- iii) An applicant’s proposed project must be located within the Metro jurisdictional boundary or have a significant direct impact to waste reduction in the Metro region.

c) Ineligible Costs

Investment and Innovation Grants may not be used for:

- i) Costs associated with preparing a grant application, proposal, stock or debt offering, formation of partnerships, incorporations, fundraising, or other forms of such business costs.
- ii) Costs not directly tied to the proposed project.
- iii) Costs incurred outside of the funding agreement.
- iv) Costs for which payment has been or will be received under another financial assistance program.
- v) The purchase of land.
- vi) Payment of fines, penalties, arrears, judgments, or other such obligations.
- vii) Projects that may degrade the quality of air, water and land resources.

d) Multiple applications and funded projects

An applicant may apply for funding for one or more projects in response to each solicitation of applications. An applicant must submit a separate application for each individual project. Metro will not accept more than one Program and one Capital grant application for the same project within the same grant cycle. Metro will award grants from the current year’s funding cycle and will not commit a future grant cycle’s monies.

7) PROGRAM FUNDING

- a) The Solid Waste Reserve Fund will fund the annual operating budget of the program beginning on July 1, 2018, and ending on June 30, 2021.
- b) The COO will request that the Metro Council fund the Investment and Innovation Grants with up to \$3 million per fiscal year. Any unawarded funds remaining at the end of a fiscal year will be used to reduce the following year's budget request.

8) GRANT CATEGORIES

a) Program Grants.

The conditions of this grant category include:

- i) Grants may be awarded in amounts between \$10,000 and \$49,999 per application.
- ii) An applicant must match with cash or in-kind contributions an amount equal to at least 20 percent of the Metro grant award. For example, a \$10,000 grant would require the applicant to provide at least \$2,000.
- iii) Grant applications for this category will be solicited no more than twice per fiscal year.
- iv) The grant recipient must complete the Metro-funded project within 12 months of the date the grant contract is signed. The grant recipient may request that Metro allow an extension of the timeframe for extenuating circumstances.
- v) Metro may determine the particular solid waste system needs that are prioritized during a grant cycle. Metro will identify such needs in the grant solicitation.

b) Capital Grants.

The conditions of the grant category include:

- i) Grants may be awarded amounts between \$50,000 and \$500,000 per application.
- ii) An applicant must fully match in cash the amount of the Metro grant award. For example, a \$100,000 grant would require the applicant to provide at least \$100,000.
- iii) Grant applications for this category will be solicited at least once per fiscal year.
- iv) This grant category is intended to fund investments in equipment, machinery, and buildings.
- v) The grant recipient must complete the Metro-funded project within 18 months of the date the grant contract is signed. The grant recipient may request that Metro allow an extension of the timeframe for extenuating circumstances.
- vi) Metro may determine the particular solid waste system needs that are prioritized during a grant cycle. Metro will identify such needs in the grant solicitation.

9) APPLICATION

- a) Information about the Investment and Innovation Grants including selection criteria, program guidelines, and accomplishments, will be posted on the Metro website.
- b) Metro staff will provide assistance to applicants in how to complete an application.
- c) Application
 - i) An eligible applicant must submit to Metro a complete application in order for Metro to consider a grant award.
 - ii) Metro will provide notice of the proposal solicitations on an annual basis. The notice will include the anticipated amount of funds available and any deadlines by which an applicant must submit an application. Metro will evaluate all complete applications received by the submittal deadline date using the criteria identified in these guidelines.
 - iii) An applicant must submit a grant application in the form and format prescribed by Metro. Each grant application must include a detailed narrative description of the scope of work, a detailed itemized budget, and timeline for the project. The itemized budget must show the overall total cost of the project and the amount of grant funds that will be applied towards the total cost.

10) GENERAL SELECTION CRITERIA

Metro will evaluate each application to determine the extent to which the project achieves the Investment and Innovation Grant objectives, as set forth in Section 2.

Metro will consider these criteria in determining whether to award grant funding to an applicant. These criteria may not apply to every grant application.

- a) Organizational criteria (50 percent of the applicant project score)
 - i) Business Planning/Experience
 - (1) Does the proposal show sufficient business planning and management experience to ensure that the project is likely to succeed?
 - (2) Has the applicant demonstrated success with previous projects that utilized external funding?
 - ii) Project Planning/Cost-effectiveness
 - (1) Has the applicant provided a thorough and complete description of the proposed project?
 - (2) How well does the proposal address the essential elements of feedstock supply, market development, financing, material handling and other key issues?
 - (3) Is it likely that the proposed project will be economically viable?
 - (4) Is it likely that the project will be sustainable after the grant is complete?

- (5) Are the cost elements and proposed time frame of the proposal appropriate for the successful completion of the project?

- iii) Budget

- (1) Does the budget appear to be complete and reasonable?
- (2) Do the specific proposed expenditures appear to be conform to normally expected item costs?
- (3) Does the proposal include official quotes from vendors for proposed project?

- b) Outcome criteria (50 percent of the applicant project score)

- i) Infrastructure or Market Need

- (1) Does the proposed project address a specific waste prevention, reuse, recycling, composting, or energy recovery infrastructure or market need in the Metro region?

- ii) Diversity, Equity, Inclusion

- (1) Does the project appear to create economic opportunities for individuals from communities of color or other historically marginalized communities?
 - (2) Does the project appear to advance equity for communities of color with respect to waste reduction-related services?
 - (3) Does the project appear to reduce negative impacts on communities of color or other historically marginalized communities from waste reduction-related services and facilities?
 - (4) Does the project appear to generate benefits for communities of color or other historically marginalized communities?

- iii) Waste Stream, Environmental, and Human Health Impacts

- (1) Does the proposal explain how the project will lead to a clear, definitive impact on the waste stream through prevention, reuse, recycling, composting, or energy recovery?
 - (2) Does the proposal explain how the project will reduce the environmental and human health impacts of the products manufactured, consumed, or disposed in the region?
 - (3) Does the proposal explain how the applicant will quantify or otherwise describe these impacts?

- c) Bonus criteria (additional 10 percent to the applicant project score)

Metro will award up to an additional 10 percent in evaluation points for an application that advances a Metro-identified priority area. As set forth in Section 8, Metro may determine and prioritize solid waste system needs for grant program consideration.

11) FUNDING CONTRACT

- a) Metro will enter into a contractual agreement with each successful applicant. The contract will specify the grant recipient's obligations, including legal and insurance requirements.
- b) Metro will award project funding on an expense reimbursement basis, unless otherwise agreed to by Metro.

- c) The recipient must submit periodic interim reporting describing project progress related to scope of work, schedule, and budget as specified in the contract.
- d) The recipient must provide Metro with an end-of-project report as specified in the contract.
- e) Metro may also specify other reporting requirements on a project-by-project basis.
- f) For a grant award of \$50,000 or greater that is used for the funding of equipment, machinery, or building improvements, Metro will require contract conditions to protect the public's interest, if within 3 years of purchase the applicant becomes insolvent, ceases use of the item, or sells the item.
- g) Metro may cancel a funding contract if it determines that the applicant has failed to make progress, the business has changed ownership, or if the project design or development is significantly different from what was approved for funding.

12) DIVERSITY, EQUITY, INCLUSION ENHANCEMENT

Metro may suggest enhancements to projects to create or strengthen diversity, equity, and inclusion aspects of the specific project or the applicant's general business practices. These enhancements may become part of the contract as a condition of the award.

13) CONFIDENTIALITY

A grant applicant may identify as confidential any reports, books, records, maps, plans, income tax returns, financial statements, contracts, and other similar written materials that are directly related to the application and that are submitted to or reviewed by Metro. The applicant must prominently mark any information that it claims confidential with the mark "CONFIDENTIAL" prior to submittal to Metro.

Metro will treat as confidential any information so marked to the extent allowed under Oregon law. Metro will make a good faith effort not to disclose the information unless Metro's refusal to disclose would be contrary to applicable Oregon law, including, without limitation, ORS Chapter 192.

Investment and Innovation Program

Metro Staff Responses to Comments on Draft Grant Guidelines

NOTE: Due to the length and varied nature of the comments received and for clarity, pertinent sections of the comments are summarized, paraphrased *and italicized*. Metro responses follow each comment.

Submitted by: Emma Prichard on March 3, 2018

- *Create additional grant categories within both the Program and Capital grants that allow for smaller grants (\$100-\$9,999), with smaller applicant contribution requirements. Small businesses and non-profits may not have the need or capacity for larger grants.*

Metro Response: Staff does not recommend any additional changes to this section.

Metro's approach for the Investment and Innovation Grants is to efficiently provide grants to provide a significant impact to the region. Metro feels that the size of the Investment and Innovation Grants will fill a void and provide opportunities for projects that exceed other grant and loan programs, including Metro's Community Enhancement Grants. In addition, Metro could not administer numerous smaller grants at the current staffing level dedicated to this program.

Submitted by: Jesus Solis on March 3, 2018

- *The guidelines should speak more to the statement on the webpage "The main goal of the program is to strengthen local efforts to reduce waste while helping foster economic opportunities for people who have historically been left out of the garbage and recycling system, particularly communities of color." The guidelines should discuss how grant funded programs will affect racial, ethnic, and cultural diversity.*

Metro Response: Staff does not recommend any additional changes to this section.

This is spoken to through the diversity, equity and inclusion criteria listed in section 10(b)(ii). Each grant applicant will have an opportunity to tell how their project will meet these criteria.

- *For small emerging companies like ours, it would be beneficial if we were allowed to apply for a capital equipment grant and a program grant to put our equipment to use in the community. Section 6(d) does not allow for multiple applications for the same project.*
- *Reduce the Capital grant match from 100 percent and allow special consideration for special circumstances.*

Metro Response: Staff has amended the draft guidelines to allow for the funding of a program grant that would help to implement a capital improvement.

The grant guidelines encourage investment on the part of the applicants. The applicant's investment or match is 20 percent on the Program Grants. Due to the size and nature of the Capital Grants, and the risk to Metro, the applicant's required investment is larger.

Submitted by: Julio Castilleja on March 6, 2018

- *Has Metro been effective in spreading the word about this grant opportunity? The timeframe for grant applications might be a little too quick for some to respond.*

Metro Response: Metro staff will develop a timeframe for applications after the Metro Council work session and finalization of the Investment and Innovation Grant guidelines. Metro will promote the grant opportunities extensively through various media and outreach to several non-profit organizations, the garbage and recycling industry, and various small business organizations.

Submitted by: Jeanne Roy on March 1, 2018

- *Most of the categories, especially waste reduction and reuse would not require new technologies. Would anything be missing without the words “advance new technologies” in section 2(f)?*

Metro Response: Staff believes the current language accommodates innovation with and without a technological component.

- *Why select priority project emphasis on an annual basis? Section 3(d)(i)*

Metro Response: Staff recommends changing “will” to “may” in section 3(d).

This change allows the Property and Environmental Services Director flexibility in the Governance section. The emphasis may be changed annually, but is not required to be changed.

Submitted by: Terrell Garrett on March 13, 2018

- *In section 3(c)(ii) - Change the “may” to “shall” and change the number of government agency representatives to three. The third government agency representative should be a trained accountant. The non-solid waste citizen representative should be from a “for profit” business with training or title of at least Chief Financial Officer. There should also be a representative who holds or has held investment decision making authority at a bank or equity investment firm.*

Metro Response: Staff agrees that experience and knowledge regarding financing and accounting will be essential to making informed decisions about applications. Metro may choose to bring that expertise into the application review process through the committee membership, through staff expertise or through consulting third parties that can fill knowledge gaps among the committee or staff. Given these options, and the value of providing the Chief Operating Officer with flexibility to create a committee that, in all its facets, will best serve the program, staff does not recommend changes to this section.

- *In section 3(d)(i) – Add language that subjects the Property and Environmental Services (PES) Director’s selection of a priority project emphasis to a Metro Council vote and approval.*
- *In section 3(d)(iii) – Change the PES Director’s review and approval or rejection of Grant Committee recommendations to “Work with the designated Metro Councilor to jointly review and approve or reject Grant Committee recommendations.”*
- *The PES Director has too much latitude and Council should provide a check and balance to ensure fairness and a level playing field.*

Metro Response: Staff does not recommend any additional changes to this section. The governance of the Investment and Innovation Grants is informed by, and similar to, Metro’s Transit Oriented Development Program (TOD). Both programs include Council budget approval, inclusion of a Metro Councilor as a voting committee member, and Council review of Seven-Day Notices on project funding. Under Section 4 of these guidelines, Council will also have the chance to review an annual report documenting the grants awarded.

- *In section 6(c)(ii) – To the items that the Investment and Innovation Grants may not be used for add the underlined word – “Costs not directly tied to the proposed project.” Money should be limited to only those costs specifically attributed to the project.*

Metro Response: Staff has added the word “directly” to this section. Grants are intended to fund the proposed project and related costs.

- *In section 6(c)(v) – In the items that the Investment and Innovation Grants may not be used for add the underlined – “The purchase of land, or construction of buildings not directly necessary to the actual equipment or operation being installed.” Money should not be used to remodel an entire building for a grant project that occupies 15 percent of the building. Grant money should only cover the proportion necessary to the grant project.*

Metro Response: This is covered by the response above that grants may not be used for “costs not directly tied to the proposed project.”

- *In section 6(d) – Applicants should be limited to receiving funding for no more than two projects during a cycle. There needs to be opportunity for more than one applicant to be successful.*

Metro Response: Staff does not recommend any additional changes to this section.

The Investment and Innovation Grant Committee will decide which projects to fund and may determine limits based on factors that might include the number of applicants, the number of projects, funds available, and the ability of the applicants to perform multiple projects.

- *In section 8(b)(iv) – In the conditions of the Capital Grants add the underlined – “This grant category is intended to fund investments in equipment, machinery, and buildings that are directly related to and necessary to the approved innovation and are not considered a vertical integration or ancillary support function.” Grant money should only be allowed for items necessary to the project.*

Metro Response: This is covered by the response above that grants may not be used for “costs not directly tied to the proposed project.”

- *Does not see how section 10(b)(ii) Diversity, Equity, Inclusion fits in the Outcome criteria. Most highly capitalized innovation projects will involve specialists that manufacture, install, and run the machines, and this type of project will likely gain few if any points under this criteria. This section should be moved to the bonus criteria. A bonus point section probably does not violate Qwest vs. City of Surprise as the funds anticipated for this program are “fee” funds, not “tax” funds. Leaving this intact does not provide the required direct benefit to those “fee” payers and constitutes an improper use of funding, leaving Metro subject to suit.*

Metro Response: Staff does not recommend any additional changes to this section. Project score for Diversity, Equity, Inclusion criteria is not limited to just the project’s manufacture, installation, and operation. Moving Diversity, Equity, and Inclusion to a bonus criteria creates the appearance that this it is not a part of the Investment and Innovation Grant core objectives. The Office of Metro Attorney has reviewed the guidelines and believes Metro is acting within its legal requirements.

- *In Section 12, Diversity, Equity, Inclusion Enhancement, any requirement of enhancements should be applied to all applicants equally as either a threshold go/no go requirement for application approval or as a condition of approval. Placing enhancement requirements on one and not another is a violation of basic civil rights and of the spirit of inclusion and equity.*

Metro Response: Staff recommends removing the word “selected” from the sentence “Metro may suggest enhancement to selected projects to create or strengthen diversity, equity, and inclusion aspects of the specific project or the applicant’s general business practices.” The Diversity, Equity, Inclusion Enhancements section is meant to provide a way that Metro can assist proposed and selected projects so all projects have the opportunity to participate in advancing diversity, equity, and inclusion in the region.

- *Conceptually: The guidelines do not specify the basic tenets for the type of project intended. Is the program’s intent to make a project feasible or to just provide financial encouragement to take on more risk or act on a contemplated project? This needs to be defined and placed in the guidelines.*

Metro Response: Staff does not recommend any additional changes to the guidelines. Staff believes that program’s objectives are adequately explained in the Purpose section and in other documentation.

- *Conceptually: There is no provision for public notice of applications received nor applications approved. There is no provision for audit nor monitoring that funds are correctly spent.*

Metro Response: Notice provisions will be provided in the application solicitation process and will be informed by the practices utilized by other Metro grant programs. In addition, under Section 4 of these guidelines, Metro staff will produce an annual report detailing the types and amounts of grants awarded. Monitoring of performance will be addressed in the grant award contracts.