

Council meeting agenda

Thursday, January 13, 2022 **10:30 AM** **<https://zoom.us/j/615079992> (Webinar ID: 615079992) or 888-475-4499 (toll free)**

Please note: To limit the spread of COVID-19, Metro Regional Center is now closed to the public.

This meeting will be held electronically. You can join the meeting on your computer or other device by using this link: <https://zoom.us/j/615079992> (Webinar ID: 615079992) or 888-475-4499 (toll free).

If you wish to attend the meeting, but do not have the ability to attend by phone or computer, please contact the Legislative Coordinator at least 24 hours before the noticed meeting time by phone at 503-797-1916 or email at legislativecoordinator@oregonmetro.gov.

1. Call to Order and Roll Call

2. Public Communication

Public comment may be submitted in writing and will also be heard by electronic communication (videoconference or telephone). Written comments should be submitted electronically by emailing legislativecoordinator@oregonmetro.gov. Written comments received by 4:00 p.m. the day before the meeting will be provided to the council prior to the meeting.

Those wishing to testify orally are encouraged to sign up in advance by either: (a) contacting the legislative coordinator by phone at 503-797-1916 and providing your name and the agenda item on which you wish to testify; or (b) registering by email by sending your name and the agenda item on which you wish to testify to legislativecoordinator@oregonmetro.gov. Those requesting to comment during the meeting can do so by using the "Raise Hand" feature in Zoom or emailing the legislative coordinator at legislativecoordinator@oregonmetro.gov. Individuals will have three minutes to testify unless otherwise stated at the meeting.

3. Consent Agenda

- 3.1 Considerations of the Council Meeting Minutes for the December 2, 2021 Meeting. [21-5640](#)
Attachments: [120221c+cw Minutes](#)
- 3.2 Considerations of the Council Meeting Minutes for the December 14, 2021 Meeting. [21-5639](#)
Attachments: [121421c Minutes](#)

- 3.3 Resolution No. 21-5230, For the Purpose of Amending the 2021-26 Metropolitan Transportation Improvement Program (MTIP) to Amend Four Projects Impacting Oregon Department of Transportation (ODOT) Allowing Federal Approvals and Phase Obligations to be Approved
- Attachments: [Resolution No. 21-5230](#)
[Exhibit A](#)
[Staff Report](#)

[RES 21-5230](#)

4. Resolutions

- 4.1 Resolution No. 21-5228, For the Purpose of Authorizing an Exemption from Competitive Bidding and Procurement of Construction Manager/General Contractor Services by Competitive Request for Proposals for Demolition of Blue Lake Park Fishing Pier

[RES 21-5228](#)

Presenter(s): Julie Hoffman (she/her), Metro
Brent Shelby (he/him), Metro

Attachments: [Resolution No. 21-5228](#)
[Exhibit A](#)
[Staff Report](#)

4.1.1 Public Hearing for Resolution No. 21-5228

- 4.2 Resolution No. 22-5232, For the Purpose of Adopting 2022 Federal and State Legislative Agendas

[RES 22-5232](#)

Presenter(s): Anneliese Koehler (she/her), Metro
Tyler Frisbee (he/him), Metro

Attachments: [Resolution No. 22-5232](#)
[Exhibit A](#)
[Exhibit B](#)
[Exhibit C](#)
[Staff Report](#)

- 4.3 Resolution No. 22-5238, For the Purpose of Authorizing the Chief Operating Officer to Execute Supportive Housing Services Intergovernmental Agreements with Multnomah, Clackamas, and Washington Counties to Implement the Metro Supportive Housing Services Program [RES 22-5238](#)

Presenter(s): Marissa Madrigal (she/her), Metro
Patricia Rojas (she/her), Metro
Shane Abma (he/him), Metro

Attachments: [Resolution No. 22-5238](#)
[Exhibit A](#)
[Exhibit B](#)
[Exhibit C](#)
[Staff Report](#)

5. Ordinances (First Reading and Public Hearing)

- 5.1 Ordinance No. 22-1473, For the Purpose of Annexing to the Metro District Boundary Approximately 2.19 Acres Located at 17687 SW Brookman Road in Sherwood [ORD 22-1473](#)

Presenter(s): Tim O'Brien (he/him), Metro

Attachments: [Ordinance No. 22-1473](#)
[Exhibit A](#)
[Staff Report](#)
[Attachment 1](#)

5.1.1 Public Hearing for Ordinance No. 22-1473

- 5.2 Ordinance No. 22-1475, For the Purpose of Amending Metro Code Chapter 11.01 to Align Certain Sections with Terms in the Supportive Housing Services Intergovernmental Agreements with Multnomah, Clackamas, and Washington Counties [ORD 22-1475](#)

Presenter(s): Shane Abma (he/him), Metro

Attachments: [Ordinance No. 22-1475](#)
[Exhibit A](#)
[Staff Report](#)

5.2.1 Public Hearing for Ordinance No. 22-1475

- 6. Chief Operating Officer Communication**
- 7. Councilor Communication**
- 8. Adjourn**

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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 kullamada dadweynaha, wac 503-797-1700 (8 gallinka hore illaa 5 gallinka dambe maalmaha shaqada) shan maalmaha 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 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 respeta los derechos civiles. Para obtener información sobre el programa de derechos civiles de Metro o para obtener un formulario de reclamo por discriminación, ingrese a www.oregonmetro.gov/civilrights. Si necesita asistencia con el idioma, llame al 503-797-1700 (de 8:00 a. m. a 5:00 p. m. los días de semana) 5 días laborales antes de la asamblea.

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Television schedule for Metro Council meetings

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

Consideration of the Council Meeting Minutes for December 2, 2021

Consent Agenda

Metro Council Meeting
Thursday, January 13, 2021

Metro

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



Metro

Minutes

Thursday, December 2, 2021

10:30 AM

This Council Meeting will adjourn into a Council Work Session

**<https://zoom.us/j/615079992> (Webinar ID: 615079992) or
888-475-4499 (toll free)**

Council meeting

1. Call to Order and Roll Call

Deputy President Craddick called the Metro Council Meeting to order at 10:30 a.m.

Present: 5 - Councilor Shirley Craddick, Councilor Christine Lewis, Councilor Juan Carlos Gonzalez, Councilor Mary Nolan, and Councilor Gerritt Rosenthal

Excused: 1 - Council President Lynn Peterson

2. Public Communication

Deputy President Craddick opened the meeting to members of the public wanting to testify on a non-agenda items.

Diane Misenhelter of XRPDX voiced disapproval of freeway expansion because of climate change's effects on the region and the importance of transportation equity.

Seeing no further discussion on the topic, Deputy President Craddick moved on to the next agenda item.

3. Consent Agenda

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

Aye: 5 - Councilor Craddick, Councilor Lewis, Councilor Gonzalez, Councilor Nolan, and Councilor Rosenthal

Excused: 1 - Council President Peterson

3.1 Consideration of the Council Meeting minutes for November 18, 2021.

3.2 Resolution No. 21-5222, For the Purpose of Providing Additional 2040 Planning and Development Grant Funds to the City of King City for Comprehensive Planning of the Kingston Terrace Urban Growth Boundary Expansion Area

4. Ordinances (First Reading and Public Hearing)

4.1 Ordinance No. 21-1466, For the Purpose of Repealing Metro Code Chapter 7.03

Deputy President Craddick called on Brian Kennedy (he/him), Metro to present on the topic.

Brian Kennedy explained Metro's current investment policy, Ordinance No. 21-1466, and why most local governments don't codify their investment policy.

Council Discussion:

Councilor Nolan asked what the difference in impact of adopting investment policy by resolution, ordinance or code.

Brian explained that there is no meaningful difference.

Councilor Rosenthal asked if the resolution should state that investment policy will be adopted by Council annually by resolution.

Carrie MacLaren responded by explaining that stating this would be unnecessary.

Councilor Lewis expressed her belief that this is the correct direction and asked what remains in code with regard to referring to and seating the investment committee and followed up by suggesting that the responsibilities of the investment committee should remain in code, not just resolution.

Brian explained that this ordinance does not change the designation of the investment advisory board and that next week's resolution includes additional language around the investment advisory board's responsibility and makeup, and that the existence of the committee is stated in Metro code.

Deputy President Craddick asked for clarification on next steps and if the second reading will be affected.

Carrie explained that the second reading and vote can proceed as planned.

Councilor Rosenthal asked if there is a timeline of when Council needs to remove the existing investment policy from code and followed up by asking if there is a resolution to adopt the new investment policy.

Brian explained that Council must re-adopt the investment policy annually and that the resolution to adopt the new investment policy is scheduled for next week.

4.1.1 Public Hearing for Ordinance 21-1466

Deputy President Craddick opened the meeting to members of the public wanting to testify on Ordinance No. 21-1466

Seeing no further discussion on the topic, Deputy President Craddick moved on to the next agenda item.

5. Ordinances (Second Reading)

- 5.1 Ordinance No. 21-1468, For the Purpose of Annexing to the Metro District Boundary Approximately 8.46 Acres Located West of NE Starr Blvd and South of NE Huffman Street in Hillsboro

Deputy President Craddick stated that the first reading and public hearing for Ordinance No. 21-1468 took place on Thursday, November 18.

Council Discussion

There was none.

A motion was made by Councilor Nolan, seconded by Councilor Gonzalez, that this Ordinance was adopted. The motion carried by the following vote:

Aye: 5 - Councilor Craddick, Councilor Lewis, Councilor Gonzalez, Councilor Nolan, and Councilor Rosenthal

Excused: 1 - Council President Peterson

- 5.2 Ordinance No. 21-1470, For the Purpose of Annexing to the Metro District Boundary Approximately 8.78 acres Located in the Vicinity of SE McInnis Street and SE Cornelius Pass Road in Hillsboro

Deputy President Craddick stated that the first reading and public hearing for Ordinance No. 21-1470 took place on Thursday, November 18.

Council Discussion

There was none.

A motion was made by Councilor Rosenthal, seconded by Councilor Gonzalez, that this Ordinance was adopted. The motion carried by the following vote:

Aye: 5 - Councilor Craddick, Councilor Lewis, Councilor Gonzalez, Councilor Nolan, and Councilor Rosenthal

Excused: 1 - Council President Peterson

- 5.3 Ordinance No. 21-1471, For the purpose of annexing to the Metro District Boundary approximately 7.67 acres located in the vicinity of NW Brugger Road and NW 160th Avenue in the North Bethany area of Washington County

Deputy President Craddick stated that the first reading and public hearing for Ordinance No. 21-1471 took place on Thursday, November 18.

Council Discussion

Councilor Rosenthal asked for clarification on if Council was annexing a portion of an existing right of way.

Tim clarified that it is a strange annexation and confirmed

that this is a portion of an existing right of way.

A motion was made by Councilor Nolan, seconded by Councilor Gonzalez, that this Ordinance was adopted. The motion carried by the following vote:

Aye: 5 - Councilor Craddick, Councilor Lewis, Councilor Gonzalez, Councilor Nolan, and Councilor Rosenthal

Excused: 1 - Council President Peterson

6. Adjourn to Work Session

There being no further business, Deputy President Craddick adjourned the Metro Council Meeting at 11:01 a.m.

1. Call to Order and Roll Call

Deputy President Craddick called the Metro Council Work Session to order at 11:01 a.m.

Present: 6 - Council President Lynn Peterson, Councilor Shirley Craddick, Councilor Christine Lewis, Councilor Juan Carlos Gonzalez, Councilor Mary Nolan, and Councilor Gerritt Rosenthal

2. Work Session Topics:

2.1 Willamette Cove Contingency Remedy Update

Council President Peterson introduced Marissa Madrigal (she/her), Brian Moore (he/him) and Paul Slyman (he/him) to present on the topic.

Staff pulled up *Willamette Cove Contingency Remedy Update PowerPoint Presentation*.

Marissa reviewed Council recent action and direction on Willamette Cove.

Paul explained where Willamette Cove is, looked though the history of the property, the site today and what work is being done now.

Brian explained the optional contingency remedy, preparations for analysis, how the analysis team is being built, the correct timing, asked for Council's input on Metro's values.

Council Discussion

Councilor Rosenthal asked staff about community impacts and financial impacts.

Brian explained that community perception and impacts are both looked at and explained that financial analysis that looks at both immediate and long term costs is important.

Councilor Lewis expressed that in order to fully clean the area Metro will have to bury and cap contaminants as well as remove contaminants from the area and stressed the importance of communicating this combination to community.

Brian responded by explaining that there is a desire by the people at Yakima to "make it like it was" and agreed that communication is important.

Councilor Gonzalez voiced that the challenge moving forward is to maximize the coordination of the cleanups within the site.

Paul agreed with Councilor Gonzalez that cleanup coordination between sites will be very important.

Councilor Lewis expressed that we must think about connectivity across the river.

Councilor Rosenthal voiced that important ethical decisions will have to be made about how far Metro can go in cleaning up the site and asked if the upland habitats in this site are

largely disconnected to other upland habitats due to railroads and neighborhoods.

Paul explained that this site is rich and connected to other habitats.

Councilor Nolan echoed previous thoughts on ethical considerations and expressed that their top priority is the restoration of the natural bounty and for the refreshment of the urban population, and that this work must be done in a timely manner.

Deputy President Craddick expressed concern about cost and asked for clarity on how Metro will pay for this project and how much it will cost.

Councilor Lewis explained what funding could be used for this site.

Marissa explained that there are a number of current unknowns around costs and timing but she is confident that staff will be able to find funding for this project.

Councilor Nolan explained that funds could be collected from adjacent property owners.

Councilor Rosenthal summarized Metro's cleanup responsibilities and decisions that have to be made moving forward.

Paul responded to Councilor Rosenthal by explaining the decisions that have to be made by Metro in more detail.

Councilor Gonzalez asked about involvement of different bureaus within the City of Portland.

Paul responded by explaining that the Bureau of

Environmental services and Portland Parks Bureau have both been involved and are aware of the site.

Seeing no further discussion on the topic, Deputy President Craddick moved on to the next agenda item.

3. Chief Operating Officer Communication

Marissa Madrigal provided an update on the following events or items:

- Chehalem ridge is opening on December 13

4. Councilor Communication

Councilors provided updates on the following meetings and events:

Preview of the audit report

- MERC Meeting

5. Adjourn

There being no further business, Deputy President Craddick adjourned the Metro Work Session at 12:09 p.m.

Respectfully submitted,

Stellan Roberts

Stellan Roberts, Legislative Assistant

Council meeting action update

Thursday, December 2, 2021

10:30 AM

1. Call to Order and Roll Call

Present: 5 - Councilor Shirley Craddick, Councilor Christine Lewis, Councilor Juan Carlos Gonzalez, Councilor Mary Nolan, and Councilor Gerritt Rosenthal

Excused: 1 - Council President Lynn Peterson

3. Consent Agenda

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

Yes: 5 - Councilor Craddick, Councilor Lewis, Councilor Gonzalez, Councilor Nolan, and Councilor Rosenthal

Excused: 1 - Council President Peterson

3.1 Consideration of the Council Meeting minutes for November 18, 2021.

3.2 **Resolution No. 21-5222:** For the Purpose of Providing Additional 2040 Planning and Development Grant Funds to the City of King City for Comprehensive Planning of the Kingston Terrace Urban Growth Boundary Expansion Area

4. Ordinances (First Reading and Public Hearing)

4.1 **Ordinance No. 21-1466:** For the Purpose of Repealing Metro Code Chapter 7.03

Assigned to Council; second reading scheduled for December 9, 2021.

5. Ordinances (Second Reading)

- 5.1 **Ordinance No. 21-1468:** For the Purpose of Annexing to the Metro District Boundary Approximately 8.46 Acres Located West of NE Starr Blvd and South of NE Huffman Street in Hillsboro

A motion was made by Councilor Nolan, seconded by Councilor Gonzalez, that this Ordinance was adopted. The motion carried by the following vote:

Yes: 5 - Councilor Craddick, Councilor Lewis, Councilor Gonzalez, Councilor Nolan, and Councilor Rosenthal

Excused: 1 - Council President Peterson

- 5.2 **Ordinance No. 21-1470:** For the Purpose of Annexing to the Metro District Boundary Approximately 8.78 acres Located in the Vicinity of SE McInnis Street and SE Cornelius Pass Road in Hillsboro

A motion was made by Councilor Rosenthal, seconded by Councilor Gonzalez, that this Ordinance was adopted. The motion carried by the following vote:

Yes: 5 - Councilor Craddick, Councilor Lewis, Councilor Gonzalez, Councilor Nolan, and Councilor Rosenthal

Excused: 1 - Council President Peterson

- 5.3 **Ordinance No. 21-1471:** For the purpose of annexing to the Metro District Boundary approximately 7.67 acres located in the vicinity of NW Brugger Road and NW 160th Avenue in the North Bethany area of Washington County

A motion was made by Councilor Nolan, seconded by Councilor Gonzalez, that this Ordinance was adopted. The motion carried by the following vote:

Yes: 5 - Councilor Craddick, Councilor Lewis, Councilor Gonzalez, Councilor Nolan, and Councilor Rosenthal

Excused: 1 - Council President Peterson

PLEASE NOTE: Official copies of legislation will be available in electronic format via format via [Metro Online Records](#). For assistance, please contact Becky Shoemaker, Metro Record Officer at ext. 1740.

ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF DECEMBER 02, 2021

ITEM	DOCUMENT TYPE	DOC DATE	DOCUMENT DESCRIPTION	DOCUMENT No.
1.0	PowerPoint	12/02/21	Willamette Cove Contingency Remedy Update PowerPoint Presentation	120221c-01
2.0	Testimony	12/02/21	Diane Meisenhelter Written Testimony	120221c-03

Agenda Item No. 3.2

Consideration of the Council Meeting Minutes for December 14, 2021

Consent Agenda

Metro Council Meeting
Thursday, January 13, 2021

Metro

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



Metro

Minutes

Tuesday, December 14, 2021

10:30 AM

This Council Meeting will adjourn into a Council Work Session

**<https://zoom.us/j/471155552> (Webinar ID: 471155552) or
877-853-5257 (toll free)**

Council meeting

1. Call to Order and Roll Call

Council President Peterson called the Metro Council meeting to order at 10:32 a.m.

Present: 6 - Council President Lynn Peterson, Councilor Shirley Craddick, Councilor Christine Lewis, Councilor Juan Carlos Gonzalez, Councilor Mary Nolan, and Councilor Gerritt Rosenthal

2. Public Communication

Council President Peterson opened the meeting to members of the public wanting to testify on a non-agenda items.

Chris Smith on behalf of No More Freeways discussed the role electrification has in reducing greenhouse gasses, explained the timeline of electrification, and that load shift is essential to reaching greenhouse emission gas goals.

Seeing no further discussion on the topic, Council President Peterson moved on to the next agenda item.

3. Consent Agenda

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

Aye: 6 - Council President Peterson, Councilor Craddick, Councilor Lewis, Councilor Gonzalez, Councilor Nolan, and Councilor Rosenthal

3.1 Consideration of the Council Meeting Minutes for November 30, 2021

4. Ordinances (Second Reading)

4.1 Ordinance No. 21-1472A, For the Purpose of Adopting a Metro Council District Reapportionment Plan and Declaring an Emergency

Council President Peterson stated that the first reading and public hearing for Ordinance No. 21-1472 took place on Tuesday, November 30 and introduced Anne Buzzini (she/her), Ina Zucker (she/her), and Clint Chiavarini

(he/him) to present Ordinance No. 21-1472A, to Council.

Ina explained that Staff has no presentation but are available for questions.

Council Discussion

There was none

A motion was made by Councilor Lewis, seconded by Councilor Rosenthal, that this Ordinance was adopted as amended. The motion carried by the following vote:

Aye: 6 - Council President Peterson, Councilor Craddick, Councilor Lewis, Councilor Gonzalez, Councilor Nolan, and Councilor Rosenthal

5. Adjourn to Work Session

There being no further business, Council President Peterson adjourned the Metro Council Meeting at 10:38 a.m.

Respectfully submitted,

Stellan Roberts

Stellan Roberts, Legislative Assistant

Agenda Item No. 3.3

Resolution No. 21-5230, For the Purpose of Amending the 2021-26 Metropolitan Transportation Improvement Program (MTIP) to Amend Four Projects Impacting Oregon Department of Transportation (ODOT) Allowing Federal Approvals and Phase Obligations to be Approved

Consent Agenda

Metro Council Meeting
Thursday, January 13, 2021

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING THE 2021-26	)	RESOLUTION NO. 21-5230
METROPOLITAN TRANSPORTATION	)	
IMPROVEMENT PROGRAM (MTIP) TO AMEND	)	Introduced by: Chief Operating Officer
FOUR PROJECTS IMPACTING ODOT ALLOWING	)	Marissa Madrigal in concurrence with
FEDERAL APPROVALS AND PHASE OBLIGATIONS	)	Council President Lynn Peterson
TO BE APPROVED (DC22-05-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 2021-24 MTIP via Resolution 20-5110 on July 23, 2020; 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, ODOT's review of their proposed Interstate 84 Culverts Repairs project east out to the NE Corbett Hill Road interchange determined that a second phase to the initial project now ready to move forward to construction during federal fiscal year 2022 is required and is being added through this formal amendment which will draw required funding from the phase one project in Key 20363, a separate culverts repair project on US26, and from savings from the HB2017 culvert repairs program; and

WHEREAS, ODOT's review of their I-84 pavement rehabilitation improvement project from I-205 to Marine Drive requires extending the western limits beyond the administrative modification threshold limits to include required rehabilitation efforts and is being accomplished as part the formal amendment without an impact to the project cost and scope of work; and

WHEREAS, ODOT's OR8 safety and signal improvement project from western Beaverton west to Forest Grove would end up being short funded is completing a scope change through the formal amendment to revise scope and funding to allow the project to move forward with the majority of scope elements still intact; and

WHEREAS, the a review of the proposed project changes has been completed against the current approved Regional Transportation Plan (RTP) to ensure the projects remain consistent with the goals and strategies identified in the RTP; and

WHEREAS, RTP consistency check areas included financial/fiscal constraint verification, an assessment of possible air quality impacts, consistency with regional approved RTP goals and strategies, and a reconfirmation that the MTIP's financial constraint finding is maintained a result of the December, MTIP Formal Amendment bundle; and

WHEREAS, none of the four projects includes capacity enhancing scope elements, or has an estimated total project cost which exceeds \$100 million dollars negating the need to complete a special amendment performance evaluation against any of the four projects; and

WHEREAS, Metro's Transportation Policy and Alternatives Committee (TPAC) received their notification plus amendment summary overview, and recommended approval to Metro's Joint Policy Advisory Committee on Transportation (JPACT) on December 3, 2021; and

WHEREAS, JPACT approved Resolution 21-5230 consisting of the December 2021 Formal MTIP Amendment on December 16, 2021 and provided their approval recommendation to Metro Council; now therefore

BE IT RESOLVED that the Metro Council hereby adopts the recommendation of JPACT on January 6, 2021 through Resolution 21-5230 to formally amend the 2021-26 MTIP to with the four projects included in the December Formal MTIP Amendment Bundle.

ADOPTED by the Metro Council this ____ day of _____ 2022.

Lynn Peterson, Council President

Approved as to Form:

Carrie MacLaren, Metro Attorney

2021-2026 Metropolitan Transportation Improvement Program
Exhibit A to Resolution 21-5230



Proposed December 2021 (FFY 2022) Formal Transition Amendment Bundle
Amendment Type: **Formal/Full**
Amendment #: **DC22-05-DEC**
Total Number of Projects: 4

Key Number & MTIP ID	Lead Agency	Project Name	Project Description	Amendment Action
Project #1 Key 20363	ODOT	I-84: Corbett Interchange - Multnomah Falls	Rehabilitation and replacement of culverts to repair damage and prevent road deterioration.	<u>SPLIT FUNDS:</u> Split \$1.8 million for the project and commit to I-84 Culverts Repairs Phase 2 project in Key 22504 (also included in this bundle)
Project #2 Key 22504 New Project	ODOT	I-84: Corbett Interchange - Multnomah Falls Phase 2	Rehabilitation and replacement of culverts to repair damage and prevent road deterioration.	<u>ADD NEW PROJECT:</u> The formal MTIP Amendments adds the I-84 culvert repairs phase 2 project to the 2021-26 MTIP
Project #3 Key 20410	ODOT	I-84: I-205 - Marine Drive	On I-84 remove/replace asphalt surface to repair rutted pavement & seal the driving surface of four bridges (#07088A, #07044A, #07043A, & #13514F) (HB2017 Project)	<u>LIMITS CHANGE:</u> Extend beginning limits from 6.80 to be 5.54 which equals an increase of 1.26 miles for the project. No scope or cost change results.
Project #4 Key 21608	ODOT	OR8 at 174th Ave, Armco Ave, Main St and A&B Row OR8 at Armco Ave, Main St and A&B Row	Full signal rebuild and sidewalk installations at the Main St intersection. Install flashing lights at the other intersections to increase safety at these locations.	<u>SCOPE CHANGE:</u> The amendment completes scope and funding adjustments to the project. The adjustments results from ODOT's funding review which indicated that there was not enough funds to cover all proposed scope deliverables. ODOT re-evaluated the project and updated the scope, schedule ,and budget to move this project forward



Metro
20121-26 Metropolitan Transportation Improvement Program (MTIP)
PROJECT AMENDMENT DETAIL WORKSHEET

Formal Amendment
SPLIT FUNDS
Split \$1.8 million from Cons to new I-84 Culverts Project in 22504

Lead Agency: ODOT		Project Type:	Safety		ODOT Key:	20363
Project Name: I-84: Corbett Interchange - Multnomah Falls	1	ODOT Type	Culvert		MTIP ID:	71250
		Performance Meas:	Yes		Status:	4
Project Status: 4 = (PS&E) Planning Specifications, & Estimates (final design 30%, 60%,90% design activities initiated).		Capacity Enhancing:	No		Comp Date:	9/30/2025
		Conformity Exempt:	Yes		RTP ID:	12093
		On State Hwy Sys:	I-84		RFFA ID:	N/A
		Mile Post Begin:	20.00		RFFA Cycle:	N/A
		Mile Post End:	32.00		UPWP:	No
		Length:	12.00		UPWP Cycle:	No
		Flex Transfer to FTA	No		Transfer Code	N/A
		1st Year Program'd:	2021		Past Amend:	0
		Years Active:	4		OTC Approval:	No
		STIP Amend #:	21-24-1404		MTIP Amnd #:	DC22-05-DEC
Detailed Description: In the northeastern Metro area on I-84 from MP 20.00 to MP 32.00, reconstruct, rehabilitate, and replace culverts to prevent road deterioration.						
STIP Description: Rehabilitation and replacement of culverts to repair damage and prevent road deterioration.						
Last Amendment of Modification: None. First amendment to the project since adding it to the MTIP last July.						

PROJECT FUNDING DETAILS

Fund Type	Fund Code	Year	Planning	Preliminary Engineering	Right of Way	Other (Utility Relocation)	Construction	Total
Federal Funds								
IM	L01E	2019		\$ 237,374				\$ 237,374
AC-NHPP	ACP0	2019		\$ 823,156				\$ -
AC-NHPP	ACP0	2019		\$ 325,063				\$ 325,063
NHPP	ZOE1	2019		\$ 498,092				\$ 498,092
AC-NHPP	ACP0	2022					\$ 2,314,095	\$ -
AC-NHPP	ACP0	2022					\$ 597,765	\$ 597,765
							Federal Totals:	\$ 1,658,294
Federal Fund Obligations \$:				\$ 1,060,529				Federal Aid ID
EA Number:				PE003141				S002(237)
Initial Obligation Date:				9/11/2019				
EA End Date:				N/A				
Known Expenditures:				N/A				
State Funds								
State	Match	2019		\$ 20,026				\$ 20,026
State	Match	2019		\$ 69,444				\$ -
State	Match	2019		\$ 27,424				\$ 27,424
State	Match	2019		\$ 42,021				\$ 42,021
State	Match	2022					\$ 195,225	\$ -
State	Match	2022					\$ 50,429	\$ 50,429
							State Total:	\$ 139,900
Local Funds								
								\$ -
								\$ -
							Local Total	\$ -
Phase Totals Before Amend:			\$ -	\$ 1,150,000	\$ -	\$ -	\$ 2,509,320	\$ 3,659,320
Phase Totals After Amend:			\$ -	\$ 1,150,000	\$ -	\$ -	\$ 648,194	\$ 1,798,194
Year Of Expenditure (YOE):								\$ 1,798,194
Phase Change Amount:			\$ -	\$ -	\$ -	\$ -	\$ (1,861,126)	\$ (1,861,126)
Phase Change Percent:			0.00%	0.00%	0.00%	0.00%	-74.17%	-50.86%

Notes and Summary of Changes:

- > Red font = prior amended funding or project details. Blue font = amended changes to funding or project details. Black font indicates no change has occurred.
- > Fund split to support Key 22504
- > Support Materials: STIP Summary Report for Key 20363 supporting changes to Key 22504.

Amendment Summary:

The formal amendment splits \$1,861,126 from Key 20363 and commits it to Key 22504. Key 22504 (also part of this amendment bundle represents phase 2 for the Culvert program on I-84. Funds are being moved from this project and 20362 to fully fund phase 2 of project in Key 22504. Key 20362 is 100% outside of the Metro MPA boundary. No action is required in the MTIP for Key 20362. Applicable changes to Key 20362 were submitted to Metro as part of the overall amendment for 22504. This included a cost update for Keys 20363 and 20362 which indicate construction phase backfills are not required.

- > Will Performance Measurements Apply: Yes: Safety

RTP References:

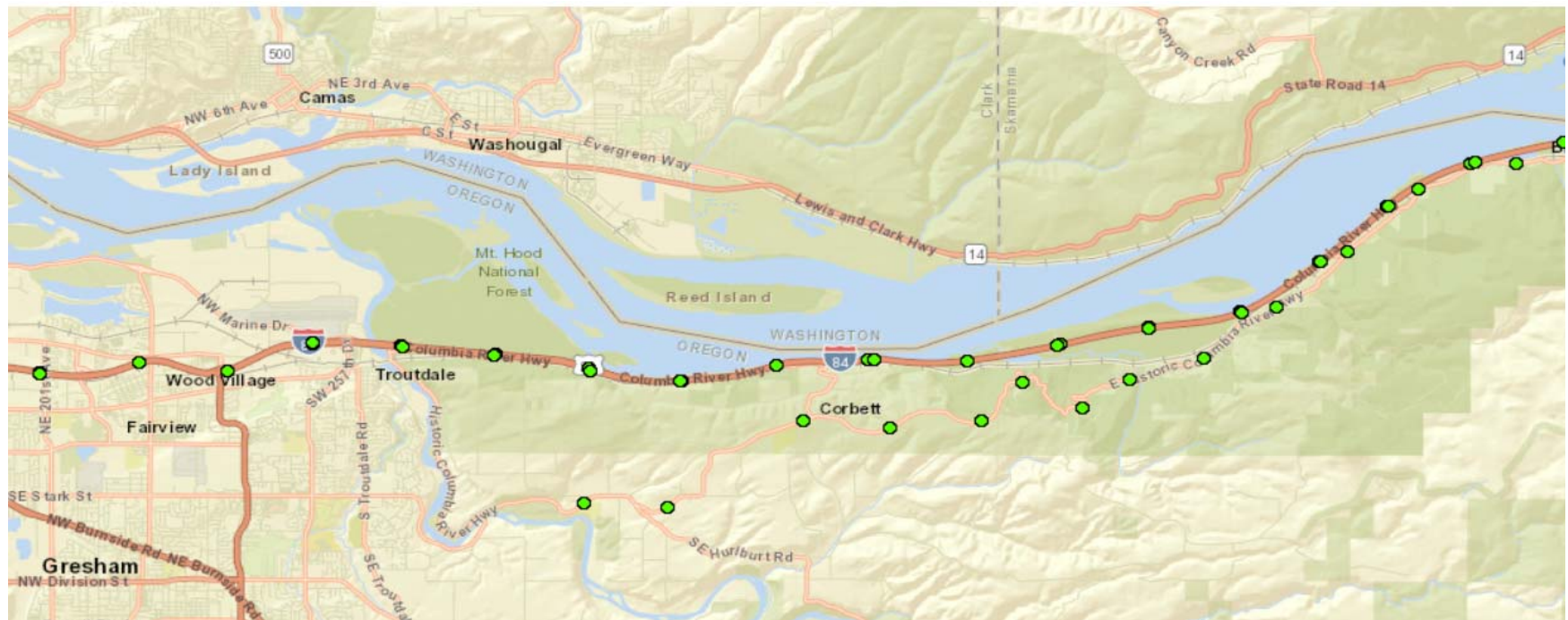
- > RTP ID: 12093 - Culvert Replacement & Repair
- > RTP Description: Repair and replacement of culverts that have or are in danger of failure, do not provide adequate drainage or are a habitat barrier to Threatened & Endangered species that do not add motor vehicle capacity.
- > Exemption status: Exempt project per 93 CFR 126, Table 2 - Safety - Projects that correct, improve, or eliminate a hazardous location or feature.
- > UPWP amendment: No
- > RTP Goals: Goal 5 - Safety and Security
- > Goal Objective: 5.1 Transportation Safety
- > Goal Description: Eliminate fatal and severe injury crashes for all modes of travel.

Fund Codes:

- > IM = Federal Interstate Maintenance funds appropriated to the State DOT and applied to eligible on-system projects.
- > AC-NHPP = Federal Advance Construction also referred to as "AC funds". AC funds are used by ODOT as a placeholder until the actual federal fund type code is known. AC-NHPP reflects that the expected fund type code will be federal National Highway Performance Program funds appropriated to ODOT.
- > NHPP = Federal National Highway Performance Program funds appropriated to the state DOT and applied to eligible projects.
- > State = General state funds provided by the lead agency as part of the required match to the federal funds.

Other

- > On NHS: Yes. I-84 is designated as part of the Eisenhower Interstate System
- > Metro Model: Yes - Motor Vehicle Networks
- > Model category and type: Throughway
- > TCM project: No
- > Located on the CMP: Yes





Metro
20121-26 Metropolitan Transportation Improvement Program (MTIP)
PROJECT AMENDMENT DETAIL WORKSHEET

Formal Amendment
ADD NEW PROJECT
Add New I-84 Culvert Repair project
to MTIP

Lead Agency: ODOT		Project Type:	Safety		ODOT Key:	22504
Project Name: I-84: Corbett Interchange - Multnomah Falls Phase 2	2	ODOT Type	Culvert		MTIP ID:	TBD
		Performance Meas:	Yes		Status:	4
		Capacity Enhancing:	No		Comp Date:	9/30/2025
		Conformity Exempt:	Yes		RTP ID:	12093
		On State Hwy Sys:	I-84		RFFA ID:	N/A
		Mile Post Begin:	20.00		RFFA Cycle:	N/A
		Mile Post End:	32.00		UPWP:	No
		Length:	12.00		UPWP Cycle:	No
		Flex Transfer to FTA	No		Transfer Code	N/A
		1st Year Program'd:	2022		Past Amend:	0
Years Active:	0		OTC Approval:	No		
		STIP Amend #: 21-24-1404			MTIP Amnd #: DC22-05-DEC	
Detailed Description: In the northeastern Metro area on I-84 from MP 20.00 to MP 32.00, reconstruct, rehabilitate, and replace culverts to prevent road deterioration.						
STIP Description: Rehabilitation and replacement of culverts to repair damage and prevent road deterioration						
Last Amendment of Modification: None. Initial programming. Companion project to Key 20363						

PROJECT FUNDING DETAILS

Fund Type	Fund Code	Year	Planning	Preliminary Engineering	Right of Way	Other (Utility Relocation)	Construction	Total
Federal Funds								
AC-STBGS 92.22%	ACP0	2022		\$ 1,094,118				\$ 1,094,118
AC-STBGS 92.22%	ACP0	2023			\$ 122,653			\$ 122,653
AC-STBGS 92.22%	ACP0	2024					\$ 2,053,948	\$ 2,053,948
								\$ -
							Federal Totals:	\$ 3,270,719
Federal Fund Obligations \$:								Federal Aid ID
EA Number:								
Initial Obligation Date:								
EA End Date:								
Known Expenditures:								
State Funds								
State	Match	2022		\$ 92,304				\$ 92,304
State	Match	2023			\$ 10,347			\$ 10,347
State	Match	2024					\$ 173,278	\$ 173,278
								\$ -
							State Total:	\$ 275,929
Local Funds								
								\$ -
								\$ -
							Local Total	\$ -
Phase Totals Before Amend:			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Phase Totals After Amend:			\$ -	\$ 1,186,422	\$ 133,000	\$ -	\$ 2,227,226	\$ 3,546,648
Year Of Expenditure (YOE):								\$ 3,546,648
Phase Change Amount:			\$ -	\$ 1,186,422	\$ 133,000	\$ -	\$ 2,227,226	\$ 3,546,648
Phase Change Percent:			0.00%	100.00%	100.00%	0.00%	100.00%	100.00%

Notes and Summary of Changes:

- > Red font = prior amended funding or project details. Blue font = amended changes to funding or project details. Black font indicates no change has occurred.
- > Fund split to support Key 22504
- > Support Materials: STIP Summary Report for Key 22504, STIP Impacts worksheet to 22504, updated cost estimates from 20363 and 20362..

Amendment Summary:

- The formal amendment adds the new phase 2 to the I-84: Corbett Interchange - Multnomah Falls culverts repair project.
- > Will Performance Measurements Apply:

RTP References:

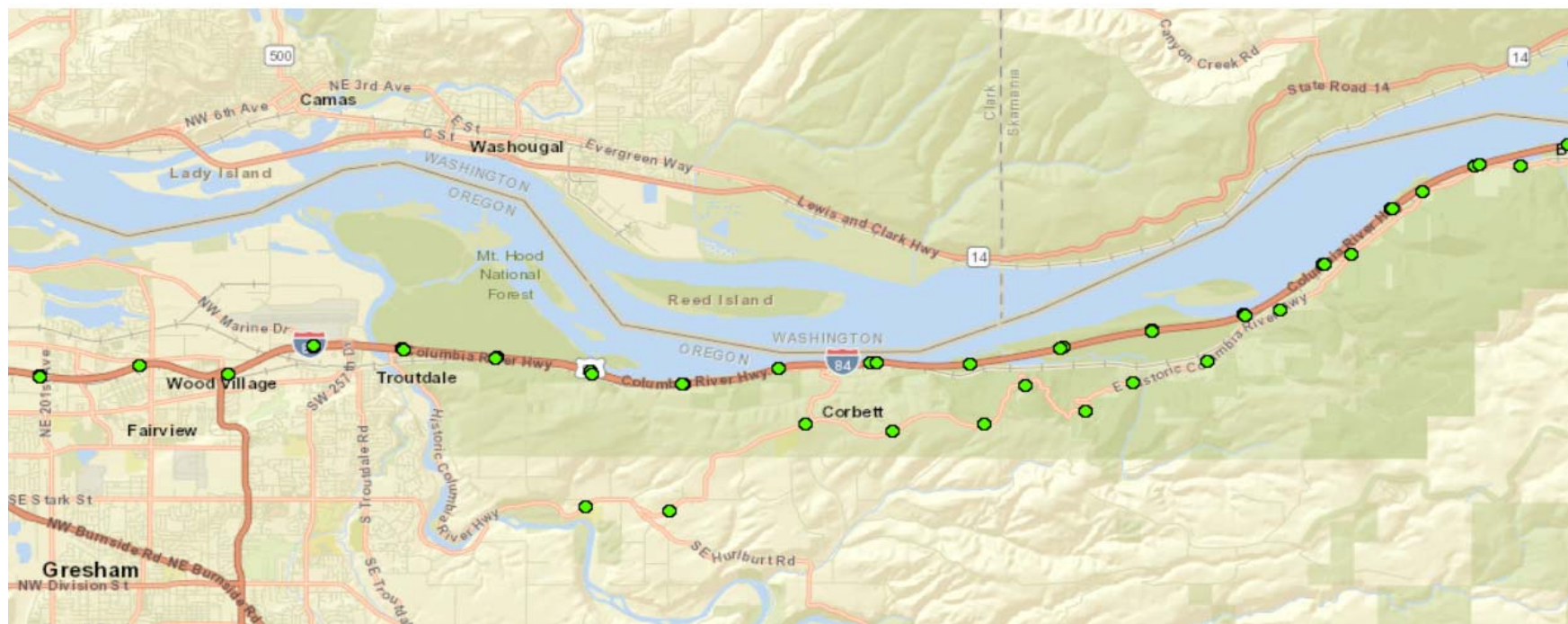
- > RTP ID: 12093 - Culvert Replacement & Repair
- > RTP Description: Repair and replacement of culverts that have or are in danger of failure, do not provide adequate drainage or are a habitat barrier to Threatened & Endangered species that do not add motor vehicle capacity.
- > Exemption status: Exempt project per 93 CFR 126, Table 2 - Safety - Projects that correct, improve, or eliminate a hazardous location or feature.
- > UPWP amendment: No
- > RTP Goals: Goal 5 - Safety and Security
- > Goal Objective: 5.1 Transportation Safety
- > Goal Description: Eliminate fatal and severe injury crashes for all modes of travel.

Fund Codes:

- > AC-STBGS = Federal Advance Construction also referred to as "AC funds". AC funds are used by ODOT as a placeholder until the actual federal fund type code is known. AC-STBGS reflects that the expected fund type code will be federal Surface Transportation Program funds appropriated to ODOT.
- > State = General state funds provided by the lead agency as part of the required match to the federal funds.

Other

- > On NHS: Yes. I-84 is designated as part of the Eisenhower Interstate System
- > Metro Model: Yes - Motor Vehicle Networks
- > Model category and type: Throughway
- > TCM project: No
- > Located on the CMP: Yes





Metro
20121-26 Metropolitan Transportation Improvement Program (MTIP)
PROJECT AMENDMENT DETAIL WORKSHEET

Formal Amendment
LIMITS CHANGE
Beginning limits from 6.80 to be 5.54

Lead Agency: ODOT		Project Type:	O&M	ODOT Key:	20410
Project Name: I-84: I-205 - Marine Drive	3	ODOT Type	Bridge	MTIP ID:	70967
		Performance Meas:	Yes	Status:	4
Project Status: 4 = (PS&E) Planning Specifications, & Estimates (final design 30%, 60%,90% design activities initiated).		Capacity Enhancing:	No	Comp Date:	9/30/2025
		Conformity Exempt:	Yes	RTP ID:	12094
		On State Hwy Sys:	I-84	RFFA ID:	N/A
		Mile Post Begin:	6.80 5.54	RFFA Cycle:	N/A
		Mile Post End:	16.67	UPWP:	No
		Length:	9.87 11.13	UPWP Cycle:	No
		Flex Transfer to FTA	No	Transfer Code	N/A
		1st Year Program'd:	2019	Past Amend:	6
		Years Active:	4	OTC Approval:	Yes
		STIP Amend #: 21-24-1610		MTIP Amnd #:	DC22-05-DEC
Short Description: On I-84 remove/replace asphalt surface to repair rutted pavement & seal the driving surface of four bridges (#07088A, #07044A, #07043A, & #13514F) (HB2017 Project)					
Detailed Description: In Northeastern Portland on I-84 from I-205 to 181st Ave (MP 6.90 to 12.52), remove and replace asphalt surface to repair rutted pavement. Repair the driving surface of four bridges (#07088A, #07044A, #07043A and #13514F). (HB2017 Awarded Project, \$3,100,000 awarded funding) Project					
STIP Description: Remove and replace asphalt surface to repair rutted pavement. Seal the driving surface of four bridges.					

Last Amendment of Modification: Administrative - August 2021 - AB21-21-AUG1 - COMBINE PROJECTS: Combine the construction phase from Key 20298 into Key 20410. Scope remains unchanged but overall limits are expanded for newly combined projects. Change name.

PROJECT FUNDING DETAILS

Fund Type	Fund Code	Year	Planning	Preliminary Engineering	Right of Way	Other (Utility Relocation)	Construction	Total
Federal Funds								
IM	L01E	2019		\$ 435,861				\$ 435,861
NHPP	Z001	2022					\$ 3,749,418	\$ 3,749,418
State-STBG	Z240	2022					\$ 260,222	\$ 260,222
AC-NHPP (92.22%)	ACPO	2022					\$ 7,614,141	\$ 7,614,141
								\$ -
							Federal Totals:	\$ 12,059,642
Federal Fund Obligations \$:				\$ 435,861				Federal Aid ID
EA Number:				PE003083				S0032(234)
Initial Obligation Date:				\$ 43,516				
EA End Date:				12/31/2023				
Known Expenditures:				\$ 292,780				
State Funds								
State	Match	2019		\$ 36,771				\$ 36,771
State	Match	2022					\$ 429,138	\$ 429,138
State	Match	2022					\$ 29,784	\$ 29,784
							\$ 642,355	\$ 642,355
								\$ -
							State Total:	\$ 1,138,048
Local Funds								
								\$ -
								\$ -
							Local Total	\$ -
Phase Totals Before Amend:			\$ -	\$ 472,632	\$ -	\$ -	\$ 12,725,058	\$ 13,197,690
Phase Totals After Amend:			\$ -	\$ 472,632	\$ -	\$ -	\$ 12,725,058	\$ 13,197,690
Year Of Expenditure (YOE):								\$ 13,197,690
Phase Amount Change:			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Phase Change Percent:			0.00%	0.00%	0.00%	0.00%	0.00%	0.00%

Notes and Summary of Changes:

- > Red font = prior amended funding or project details. Blue font = amended changes to funding or project details. Black font indicates no change has occurred.
- > Adjusting project mile point limits
- > Support Materials: STIP Summary Report, STIP Impacts Worksheet.

Amendment Summary:

The formal amendment updates the project limits. The net change is 1.26 miles which is above the current threshold of 0.25 miles. There are no cost changes. No scope changes occur as a result.

- > Will Performance Measurements Apply: Yes - Pavement and Safety

RTP References:

- > RTP ID: 12094 - Highway Pavement Maintenance
- > RTP Description: Pavement rehabilitation/repair projects includes overlays, slurry seals, full pavement replacement, and other minor roadway improvements (curb and gutters, adding/widening shoulders) that do not add motor vehicle capacity.
- > Exemption status: Exempt project per 93 CFR 126, Table 2 - Safety - Pavement resurfacing and/or rehabilitation.
- > UPWP amendment: No
- > RTP Goals: Goal 5 - Safety and Security
- > Goal Objective: 5.1 Transportation Safety
- > Goal Description: Eliminate fatal and severe injury crashes for all modes of travel.

Fund Codes:

- > IM = Federal Interstate Maintenance funds appropriated to the state DOT and committed to eligible roadway improvement projects.
- > NHPP = Federal National Highway Performance Program funds appropriated to the State DOT and committed to eligible projects
- > AC-NHPP = Federal Advance Construction also referred to as "AC funds". AC funds are used by ODOT as a placeholder until the actual federal fund type code is known. AC-NHPP reflects that the expected fund type code will be federal NHPP funds appropriated to ODOT.
- > State STBG = Federal Surface Transportation Block Grant funds appropriated to the state DOT. A portion of the funds are maintained by ODOT and then committed to eligible projects.
- > State = General state funds provided by the lead agency as part of the required match to the federal funds.

Other

- > On NHS: Yes. I-84 is identified as part of the Eisenhower Interstate System on the NHS system
- > Metro Model: Yes - Motor Vehicle network
- > Model category and type: Throughway
- > TCM project: No
- > Located on the CMP: Yes





Metro
20121-26 Metropolitan Transportation Improvement Program (MTIP)
PROJECT AMENDMENT DETAIL WORKSHEET

Formal Amendment
SCOPE CHANGE
Adjust and increase phase funding,
scope and name

Lead Agency: ODOT		Project Type: Safety		ODOT Key: 21608
Project Name: OR8 at 174th Ave, Armco Ave, Main St and A&B Row OR8 at Armco Ave, Main St and A&B Row	4	ODOT Type: Safety		MTIP ID: 71162
Project Status: 4 = (PS&E) Planning Specifications, & Estimates (final design 30%, 60%,90% design activities initiated). Short Description: Full signal rebuild and sidewalk installations at the Main St intersection. Install flashing lights at the other intersections to increase safety at these locations.		Performance Meas: Yes		Status: 4
		Capacity Enhancing: No		Comp Date: 9/30/2025
		Conformity Exempt: Yes		RTP ID: 12095
		On State Hwy Sys: OR8		RFFA ID: N/A
		Mile Post Begin: 6.09		RFFA Cycle: N/A
		Mile Post End: 17.66		UPWP: No
		Length: 11.57		UPWP Cycle: No
		Flex Transfer to FTA: No		Transfer Code: N/A
		1st Year Program'd: 2021		Past Amend: 0
Years Active: 2		OTC Approval: No		
		STIP Amend #: 21-24-1404		MTIP Amnd #: DC22-05-DEC
Detailed Description: Full signal rebuild and sidewalk installations at the Main St intersection. Install flashing lights at the other intersections to increase safety at these locations.				
STIP Description: Full signal rebuild and sidewalk installations at the Main St intersection. Install flashing lights at the other intersections to increase safety at these locations.				

Last Amendment of Modification: None. This action represents the amendment to the project.

PROJECT FUNDING DETAILS

Fund Type	Fund Code	Year	Planning	Preliminary Engineering	Right of Way	Other (Utility Relocation)	Construction	Total
Federal Funds								
NHPP	Z001	2021	-	\$ 452,448				\$ -
NHPP	Z001	2021		\$ 843,538				\$ 843,538
AC-HSIP	ACP0	2021		\$ 293,635				\$ 293,635
HSIP (92.22%)	ZS3E	2021		\$ 465,004				\$ 465,004
NHPP	Z001	2022			\$ 161,621			\$ -
AC-HSIP	ACP0	2022			\$ 117,735			\$ -
NHPP	Z001	2023			\$ 161,621			\$ 161,621
AC-HSIP	ACP0	2023			\$ 117,735			\$ 117,735
NHPP	Z001	2022				\$ 59,455		\$ 59,455
AC-HSIP	ACP0	2022				\$ 13,081		\$ 13,081
NHPP	Z001	2023					\$ 2,267,849	\$ -
NHPP	Z001	2024					\$ 1,823,190	\$ 1,823,190
AC-HSIP	ACP0	2023					\$ 1,338,111	\$ -
AC-HSIP	ACP0	2024					\$ 1,338,111	\$ 1,338,111
							Federal Totals:	\$ 5,115,370
Federal Fund Obligations \$:				\$ 1,602,177				Federal Aid ID
EA Number:				PE003247				S029(035)
Initial Obligation Date:				11/6/2020				
EA End Date:				N/A				
Known Expenditures:				N/A				

State Funds								
State	Match	2021		\$ 51,785			\$ -	
State	Match	2021		\$ 96,547			\$ 96,547	
State	Match	2021		\$ 24,772			\$ 24,772	
State	Match	2021		\$ 39,229			\$ 39,229	
Bikeways	S080	2021		\$ 500,000			\$ 500,000	
State	Match	2022			\$ 18,498		\$ -	
State	Match	2022			\$ 9,932		\$ -	
State	Match	2023			\$ 18,498		\$ 18,498	
State	Match	2023			\$ 9,932		\$ 9,932	
Bikeways	S080	2023			\$ 150,000		\$ 150,000	
State	Match	2022			\$ 6,805		\$ 6,805	
State	Match	2022			\$ 1,104		\$ 1,104	
State	Match	2023				\$ 259,565	\$ -	
State	Match	2024				\$ 208,672	\$ 208,672	
State	Match	2023				\$ 112,888	\$ -	
State	Match	2024				\$ 112,888	\$ 112,888	
State Total:							\$ 1,168,447	
Local Funds								
							\$ -	
							\$ -	
Local Total							\$ -	
Phase Totals Before Amend:			\$ -	\$ 822,640	\$ 307,786	\$ 80,445	\$ 3,978,413	\$ 5,189,284
Phase Totals After Amend:			\$ -	\$ 2,262,725	\$ 457,786	\$ 80,445	\$ 3,482,861	\$ 6,283,817
Year Of Expenditure (YOE):							\$ 6,283,817	
Phase Change Amount:			\$ -	\$ 1,440,085	\$ 150,000	\$ -	\$ (495,552)	\$ 1,094,533
Phase Change Percent:			0.00%	175.06%	48.74%	0.00%	-12.46%	21.09%

Notes and Summary of Changes:

- > Red font = prior amended funding or project details. Blue font = amended changes to funding or project details. Black font indicates no change has occurred.
- > Shift funding from Cons to PE and adjust name to reflect scope update
- > Support Materials: STIP Summary Report, STIP Impacts Worksheet, plus project cost updates.

Amendment Summary:

The formal amendment completes scope and funding adjustments to the project. As a result, the total project cost increases by 21% from \$5,184,284 to \$6,283,817. The adjustments are occurring from ODOT's funding review which indicated that there was not enough funds to cover all proposed scope deliverables. ODOT re-evaluated the project and updated the scope, schedule and budget to move this project forward. The original intent of the project was to include illumination at Armco, not a pedestrian enhancement, so the 74th RRFB scope element is being dropped it from the name of the project. The construction phase also slips to FFY 2024 due to the scope adjustments and funding changes.

The summary of changes includes the following: (1) Remove pedestrian crossing scope for OR8 at 174th, and Armco Rd. (2) Do not design pedestrian crossing at OR8 and 214th. (3) Add Illumination at OR8 and Armco Rd. (4) Change project name to reflect changed scope. New name: OR8 at Armco Ave, Main St and A&B Row (5) Update locations. Remove 6.07 and add 16.68-13.82; 13.84-13.87, 13.95-13.95, and 13.89-13.9. MPs .19 difference. (6) Slip CN to FFY24. (7) Add \$444,532 from HB2017 Safety Leverage funds to PE funds, transfer \$495,553 from CN to PE, Add \$500,000 to PE from SWIP funds, Add \$150,000 to ROW from SWIP funds.

The total changes produce a sufficient scope change and cost increase to proceed as a formal amendment.

- > Will Performance Measurements Apply: Yes, safety

RTP References:

- > RTP ID: 12095 - Safety & Operations Projects
- > RTP Description: Projects to improve safety or operational efficiencies such as pedestrian crossings of arterial roads, railroad crossing repairs, slide and rock fall protections, illumination, signals and signal operations systems, that do not add motor vehicle capacity.
- > Exemption status: Exempt project per 93 CFR 126, Table 2 - Safety - Projects that correct, improve, or eliminate a hazardous location or feature.
- > UPWP amendment: No
- > RTP Goals: Goal 5 - Safety and Security
- > Goal Objective: 5.1 Transportation Safety
- > Goal Description: Eliminate fatal and severe injury crashes for all modes of travel.

Fund Codes:

- > NHPP = Federal National Highway Performance Program funds appropriated to the state DOT and committed to eligible projects
- > AC-NHPP = Federal Advance Construction fund type codes used as placeholder for a future federal fund code to be committed to the project. In this case, AC-NHPP infers that federal NHPP will be the future fund code to be committed to the project.
- > HSIP = Federal Highway Safety Improvement Program funds appropriated to the state DOT and committed to eligible projects
- > AC-HSIP = Federal Advance Construction fund type code placeholder. In this case, the future expected federal funds are expected to be HSIP.
- > Bikeways = State funds specifically supporting pedestrian and bicycle improvements for eligible projects..
- > State = General state funds provided by the lead agency as part of the required match to the federal funds.

Other

- > On NHS: Yes. OR8 is designated as an "Other NHS Routes" on the NHS system
- > Metro Model: Yes - Motor Vehicle Networks and Bicycle Network
- > Model category and type: Major Arterial (Motor Vehicle Network) and Bicycle Parkway (Bicycle Network)
- > TCM project: No
- > Located on the CMP: Yes

Locations													
Route	Highway	MP Begin	MP End	Length	Street	City	County	ACT	Bridge	Reg	State Repr Dist	State Sen Dist	US Cngr Dist
OR-8	029 TUALATIN VALLEY HIGHWAY	6.07	6.07	0.00	OR-8 at 174th Ave		WASHINGTON	R1ACT		1	28	14	1
OR-8	029 TUALATIN VALLEY HIGHWAY	13.74	13.74	0.00	SW Oak St at Armco Ave	HILLSBORO	WASHINGTON	R1ACT		1	29	15	1
OR-8	029 TUALATIN VALLEY HIGHWAY	13.91	13.93	0.02	SW Baseline at SW Main St	HILLSBORO	WASHINGTON	R1ACT		1	29	15	1
OR-8	029 TUALATIN VALLEY HIGHWAY	17.66	17.66	0.00	Pacific Ave at A and B Row	FOREST GROVE	WASHINGTON	R1ACT		1	29	15	1
OR-8	029 TUALATIN VALLEY HIGHWAY	13.68	13.82	0.14		HILLSBORO	WASHINGTON	R1ACT		1	29	15	1
OR-8	029 TUALATIN VALLEY HIGHWAY	13.95	13.95	0.00		HILLSBORO	WASHINGTON	R1ACT		1	29	15	1
OR-8	029 TUALATIN VALLEY HIGHWAY	13.84	13.87	0.03		HILLSBORO	WASHINGTON	R1ACT		1	29	15	1
OR-8	029 TUALATIN VALLEY HIGHWAY	13.89	13.91	0.02		HILLSBORO	WASHINGTON	R1ACT		1	29	15	1

Best Map  COMMUNITY

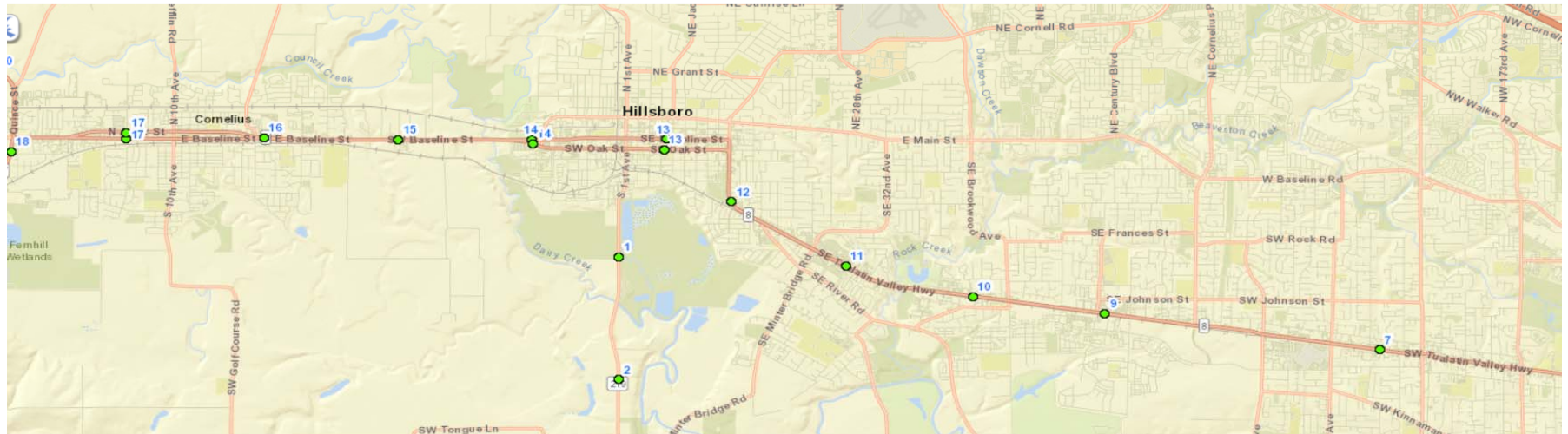
on [Milepost Map](#)

which contains mileposts on state owned highways.



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Memo



Metro

600 NE Grand Ave.
Portland, OR 97232-2736

Date: December 16, 2021
To: Metro Council and Interested Parties
From: Ken Lobeck, Funding Programs Lead
Subject: November 2021 (FFY 2022) MTIP Formal Amendment & Resolution 21-5230 Approval Request

FORMAL AMENDMENT STAFF REPORT

FOR THE PURPOSE OF AMENDING THE 2021-26 METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM (MTIP) TO AMEND FOUR PROJECTS IMPACTING ODOT ALLOWING FEDERAL APPROVALS AND PHASE OBLIGATIONS TO BE APPROVED (DC22-05-DEC)

BACKGROUND

What This Is:

The December 2021 Formal Metropolitan Transportation Improvement Program (MTIP) Formal/Full Amendment regular bundle which is contained in Resolution 21-5230 and being processed under MTIP Amendment DC22-05-DEC. The bundle contains a total of four project amendments.

What is the requested action?

JPACT approved Resolution 21-5230 on December 16, 2021 and now recommends Metro Council approve Resolution 21-5230 consisting of four projects which impact ODOT allowing the required adjustments to and enable their next federal approval step and/or phase obligation to occur.

Proposed December 2021 (FFY 2022) Formal Amendment Bundle					
Amendment Type: Formal/Full					
Amendment #: DC22-05-DEC					
Total Number of Projects: 4					
ODOT Key #	MTIP ID #	Lead Agency	Project Name	Project Description	Description of Changes
Project #1 Key 20363	71250	ODOT	I-84: Corbett Interchange - Multnomah Falls	Rehabilitation and replacement of culverts to repair damage and prevent road deterioration.	SPLIT FUNDS: Split \$1.8 million for the project and commit to I-84 Culverts Repairs Phase 2 project in Key 22504 (also included in this bundle)

ODOT Key #	MTIP ID #	Lead Agency	Project Name	Project Description	Description of Changes
Project #2 Key 22504 New Project	New TBD	ODOT	I-84: Corbett Interchange - Multnomah Falls Phase 2	Rehabilitation and replacement of culverts to repair damage and prevent road deterioration.	<u>ADD NEW PROJECT:</u> The formal MTIP Amendments adds the I-84 culvert repairs phase 2 project to the 2021-26 MTIP
Project #3 Key 20410	70967	ODOT	I-84: I-205 - Marine Drive	On I-84 remove/replace asphalt surface to repair rutted pavement & seal the driving surface of four bridges (#07088A, #07044A, #07043A, & #13514F) (HB2017 Project)	<u>LIMITS CHANGE:</u> Extend beginning limits from 6.80 to be 5.54 which equals an increase of 1.26 miles for the project. No scope or cost change results.
Project #4 Key 21608	71162	ODOT	OR8 at 174th Ave, Armco Ave, Main St and A&B Row OR8 at Armco Ave, Main St and A&B Row	Full signal rebuild and sidewalk installations at the Main St intersection. Install flashing lights at the other intersections to increase safety at these locations.	<u>SCOPE CHANGE:</u> The amendment completes scope and funding adjustments to the project. The adjustments results from ODOT's funding review which indicated that there was not enough funds to cover all proposed scope deliverables. ODOT re-evaluated the project and updated the scope, schedule, and budget to move this project forward

AMENDMENT BUNDLE SUMMARY:JPACT 12/16/2021 Meeting Summary:

Prior to the meeting, ODOT submitted a clarifying comment concerning MTIP project Key 21608, OR8 at Armco Ave, Main St and A&B Row. The project will:

- Provide full signal rebuild and sidewalk installations at the Main St intersection.
- Install flashing lights at the other intersections to increase safety at these locations.

A review of the submitted changes for the project revealed a small discrepancy concerning the right-of way (ROW) phase. The schedule review indicates the ROW phase needs to be shown in federal fiscal year (FFY) 2023. As submitted, the ROW phase was programmed in FFY 2022. Per ODOT's comment, the ROW phase has been changed to be programmed in FFY 2023 which is now consistent with their delivery schedule. Other than ODOT's comment, no additional comments concerning any of the four projects within the December 2021 Formal MTIP Amendment bundle were received as of December 16, 2021. The public comment period is open until January 4, 2022. Staff will advise Council members if any significant comments are received from mid-December through January 4, 2022 that require further discussion.

The December Formal MTIP Amendment bundle is contained under Resolution 21-5230. The item proceeded through JPACT as a consent item. JPACT passed the consent calendar on December 16, 2021 with discussion.

TPAC 12/3/2021 Meeting Summary:

TPAC met on December 3, 2021 and received their MTIP Amendment notification and overview for the December 2021 Formal MTIP Amendment bundle under draft Resolution 21-5230. Metro staff provided an overview of the four projects in the bundle. A couple of questions were raised to ODOT about project changes and the lack of notification to the local agencies. The concern was not directed at the MTIP amendment process, but project delivery and timely local agency notification when ODOT changes scope to their projects. After comments on this topic were completed, TPAC moved and recommended JPACT approval of the December 2021 Formal MTIP Amendment under Resolution 21-5230.

The December 2021 (FFY 2022) Formal MTIP Amendment bundle initiates project programming adjustments needed for federal fiscal Year (FFY) 2022. The amendment bundle contains 4 projects.

Below is a summary list of key acronyms used in the report:

- AC-STBG = “AC” = Federal Advance Construction programmatic fund type code used as placeholder. The “STBGS” tag represents the expected federal fund type code of State allocated Surface Transportation Block Grant funds that will become the final federal fund for the project.
- ADVCON = Generic Advance Construction fund type code where the future federal fund code is not yet known.
- AC-NHPP = Federal Advance Construction fund type code used with the expectation that the final federal fund code will be National Highway Performance Program funds.
- ADA = Americans with Disabilities Act
- Cons = Construction phase
- FFY = Federal Fiscal Year (e.g. October 1 through September 30)
- FHWA = Federal Highways Administration
- FMIS = FHWA’s Financial Management Information System
- HSIP = Federal Highway Safety Improvement Program funds
- ITS = Intelligent Transportation System
- LAL = ODOT Local Agency Liaison staff member
- LPA = Locally Preferred Alternative
- MP = Mile Post limit markers on the State Highway system
- NHPP = Federal National Highway Performance Program funds appropriated to ODOT
- ODOT = Oregon Department of Transportation
- OTC = Oregon Transportation Commission
- PE = Preliminary Engineering
- ROW/RW = Right of Way phase

DECEMBER 2021 MTIP FORMAL AMENDMENT PREVIEW

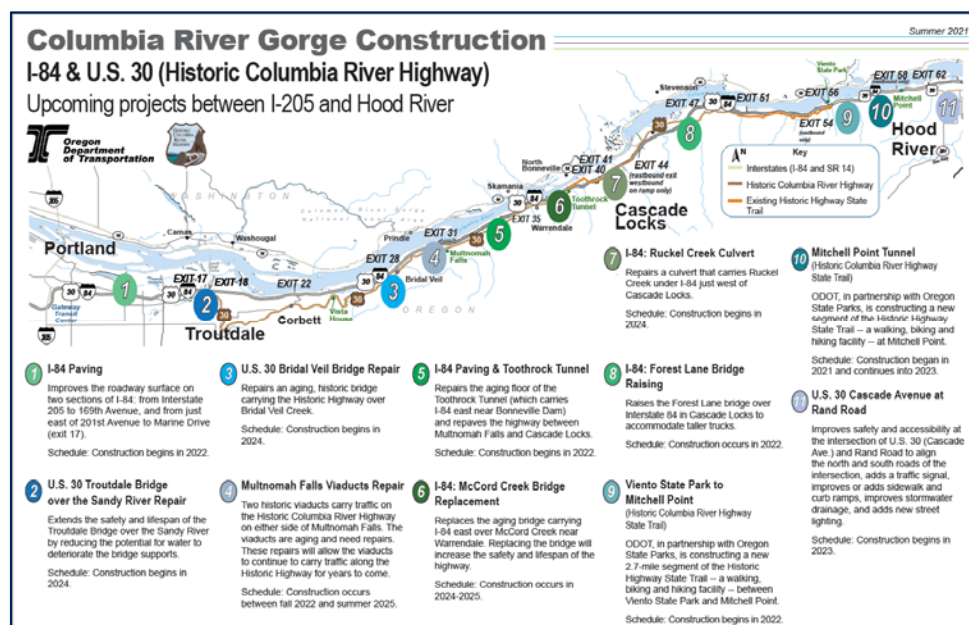
The December 2021 formal amendment bundle contains two culvert repair projects on I-84. The split funding to Key 20363 and adding Key 22504 represents adding phase 2 to the I-84 Corbett Interchange - Multnomah Falls culvert repairs project.

This section of highway is designated as an ODOT Priority Route and culverts along this section of highway and culverts need to be repaired or replaced to extend the lifespan of the culvert, and maintain safety and operations of the highway. The culverts will likely be lined using a cured-in place method to minimize construction impact. This technique avoids excavation of the road.

The culvert repair projects offer several operations and maintenance benefits to I-84 and the regional highway network. First, the repairs maintain and extend the life of infrastructure. This

work will extend the life of the transportation system by repairing and conducting maintenance activities on culverts that run under the existing roads. Second, the projects offer safety improvements to the transportation system. Properly operating culverts manage water flow, minimizing flooding and erosion near roads. This improves safety for the traveling public.

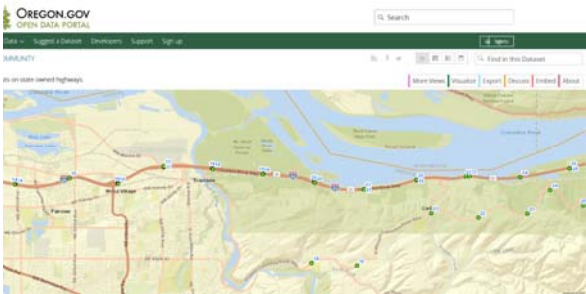
As the repair design and scope for the culverts are refined, costs are updated and limits adjusted to reflect optimal delivery based on the available funding. The delivery options now support added funding from Key 22504 which is being shifted from Key 20363, 20362, and savings from HB2017 Culvert Program. Note: Key 20362 is located on US 26, but outside of the MPA boundary and no action to this project needs to be completed to the MTIP. Key 20363 is splitting \$1.86 million from the project with \$998k coming from Key 20362 and the remaining amount from HB2017 Culvert Program savings. Overall, the I-84 culverts repairs are one part of ongoing preservation and maintenance to I-84 out to Hood River as shown below:



Key 20410 is ODOT's I-84 pavement repair and rehabilitation project from I-205 to Marine Dr. The project adds pavement grind and inlay at west end of project. Eastbound paving at the west end will extend to MP 6.53 and WB paving will extend to MP 5.54. There is no scope or cost change as a result of the limits expansion.

The four project is ODOT's Key 21608. The amendment completes scope and funding adjustments to the project. As a result, the total project cost increases by 21% from \$5,184,284 to \$6,283,817. The adjustments result from ODOT's funding review which indicated that there was not enough funds to cover all proposed scope deliverables. ODOT re-evaluated the project and updated the scope, schedule and budget to move this project forward. The project name is also updated as a result of the scope change.

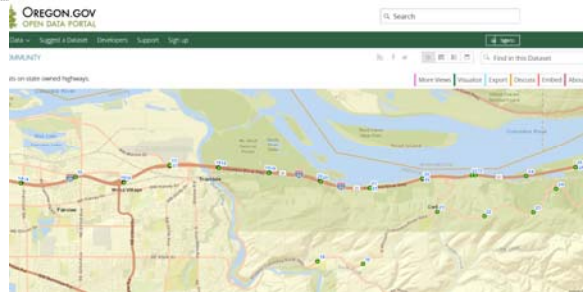
A detailed overview of each project amendment in the bundle is provided on the next pages.

Project 1		I-84: Corbett Interchange - Multnomah Falls	
Lead Agency:	ODOT		
ODOT Key Number:	20363	MTIP ID Number:	71250
Projects Description:	Project Snapshot:		
	• <u>Quick Amendment Summary:</u> The amendment splits \$1.86 million from the project and commits the funding to new Key 22504 also being added as part of this amendment bundle.		
	• <u>Metro UPWP Project:</u> No		
	• <u>Proposed improvements:</u> Key 20363 was first of two culverts repair projects now being added to the MTIP that cross into the Metropolitan Planning Area Boundary. The second project is new Key 22504 (next project in this bundle)		
	• <u>Source:</u> Existing project.		
	• <u>Amendment Action:</u> Splits \$1.86 million from the project and commits the funds to key 22504 for increased delivery efficiencies. Note: Key 20363 was added to the MTIP last July when the project limits were extended and now crossed into the Metro MPA boundary. An updated cost assessment revealed that the funds could be transferred to Key 22504 without a negative impact to Key 20363.		
	• <u>Additional Amendment Evaluation Required:</u> No. The project does not add motor vehicle through lane capacity and is considered exempt for air quality and transportation modeling analysis. Additionally, the project cost does not exceed \$100 million.		
	• <u>Funding:</u> The funding for the project consists of federal National Highway Performance Program (NHPP) funds.		
	• <u>FTA Conversion Code:</u> Not applicable. No transit funds are involved.		
	• <u>Location, Limits and Mile Posts:</u> - o Location: On I-84 in northeast Portland - o Cross Street Limits: N/A - o Overall Mile Post Limits: MP 32.00 to MP 20.00		
			

	• <u>Current Status Code:</u> 4 = (PS&E) Planning Specifications, & Estimates (final design 30%, 60%, 90% design activities initiated). • <u>Air Conformity/Capacity Status:</u> Key 20363 is a non-capacity enhancing project. It is exempt from air quality conformity analysis per 40 CFR 93.126, Table 2 – Safety, Projects that correct, improve, or eliminate a hazardous location or feature. • <u>Regional Significance Status:</u> The project is regionally significant as it contains federal funds and is located on a defined Throughway in the Metro Motor Vehicle Modeling Network • <u>Amendment ID and Approval Estimates:</u> - o STIP Amendment Number: 21-24-1404 - o MTIP Amendment Number: DC22-05-DEC - o OTC approval required: No. - o Metro approval date: Tentatively scheduled for January 6, 2022.
What is changing?	<u>AMENDMENT ACTION: SPLIT FUNDS</u> Key 20363 is one two culvert repair projects on I-84 from east of Troutdale out to Hood River. Key 22504 is the other project. Key 20362 is located on US26 and splitting funds and committing them to new Key 22504. Key 20362 is located outside of the Metro MPA boundary, no action in the MTIP is required. ODOT's review of the projects indicates the funding split from Key 20363 and 20362 can occur without negative impacts to either project. Key 22504 receives the funding for increased delivery efficiencies.
Additional Details:	Summary of Actions to create Key 22504 <pre> graph LR K20363["Key 20363 I-84: Corbett Interchange - Multnomah Falls Splits \$1.86 million and commits to new Key 22504 Inside MPA = MTIP Action Required for 20363"] --> K22504["Key 22504 I-84: Corbett Interchange- Multnomah Falls Phase 2 Adds funds from both projects for culvert repairs"] K20362["Key 20362 US26: SE Kelso Rd - Frog Lake Sno Park Splits \$998,392 and commits to new Key 22504 Outside of MPA = No action to MTIP for Key 20362"] --> K22504 Savings["Added HB2017 Culvert Program Savings"] --> K22504 </pre>
Why a Formal amendment is required?	The project fund shift is tied to the action of adding a new project to the MTIP. Adding a new project to the MTIP requires a formal amendment

Total Programmed Amount:	Key 20363 decreases in the programmed amount from \$3,659,320 to \$1,798,194 as a result of the split fund action.
Added Notes:	See added references to project Key 22504

Project 2	I-84: Corbett Interchange - Multnomah Falls Phase 2 (New Project)		
Lead Agency:	ODOT		
ODOT Key Number:	22504	MTIP ID Number:	New TBD
Projects Description:	Project Snapshot: • Quick Amendment Summary: The amendment adds the I-84 culverts repairs – phase 2 project which follows on the efforts that will be completed in Key 20363. • <u>Metro UPWP Project:</u> No • <u>Proposed improvements:</u> Key 22504 is the second of two culvert repair projects along I-84 that now cross into the Metro Planning Area Boundary which now requires MTIP programming. Key 22504 will also complete needed culvert repairs along the same project limits as for Key 20363. The main difference is the construction timing for phase 2 will not begin until FFY 2024 while construction for Key 20363 is scheduled to obligate before the end of FFY 2022. • <u>Source:</u> New project. • <u>Amendment Action:</u> Adds the new phase 2 project as a follow-on project to Key 20363 to the 2021-26 MTIP. • <u>Additional Amendment Evaluation Required:</u> No. The project does not add motor vehicle through lane capacity and is considered exempt for air quality and transportation modeling analysis. Additionally, the project cost does not exceed \$100 million. • <u>Funding:</u> The funding for the project originates from three sources: \$1.86 million is split off from Key 20363. \$998k is split off from Key 20362. Remaining funding is sourced from the HB2017 Culverts Repair program reserves. Federal Advance Construction is being used to program the phase costs until the specific federal fund type code is known. • <u>FTA Conversion Code:</u> Not applicable. No transit funds are involved. • <u>Location, Limits and Mile Posts:</u> - o Location: On I-84 in northeast Portland - o Cross Street Limits: N/A - o Overall Mile Post Limits: MP 32.00 to MP 20.00		



- Current Status Code: 4 = (PS&E) Planning Specifications, & Estimates (final design 30%, 60%, 90% design activities initiated).
- Air Conformity/Capacity Status:
Key 22504 is a non-capacity enhancing project. It is exempt from air quality conformity analysis per 40 CFR 93.126, Table 2 – Safety, Projects that correct, improve, or eliminate a hazardous location or feature.
- Regional Significance Status: The project is regionally significant as it contains federal funds and is located on a defined Throughway in the Metro Motor Vehicle Modeling Network
- Amendment ID and Approval Estimates:
 - o STIP Amendment Number: 21-24-1404
 - o MTIP Amendment Number: DC22-05-DEC
 - o OTC approval required: No.
 - o Metro approval date: Tentatively scheduled for January 6, 2022.

AMENDMENT ACTION: ADD NEW PROJECT

Key 22504 is one two culvert repair projects on I-84 from east of Troutdale out to Hood River. Key 20363 is the other project. Key 22504 contains the same basic project limits and is considered a follow-on project to Key 20363. While the construction phase obligation is planned to occur before the end of FFY 2022 (September 30, 2022), the construction phase for Key 22054 is not scheduled until FFY 2024. Key 20362 is the third project impacting Key 22504 and outside the MPA boundary. ODOT's review determined \$998k could be split off Key 20362 and committed to Key 22504. No MTIP action is required

What is changing?

2021-2024 Active STIP	CLACKAMAS	2021-2024 Active STIP
Name: US26: SE Kelso Rd - Frog Lake Sno Park		Key: 20362
Description: Rehabilitation and replacement of culverts to repair damage and prevent road deterioration.		
MPO: Non-MPO	Work Type: CVLVRT	Region:
Applicant: ODOT		Status: PROJECT SCHEDULED FOR CONSTRUCTION
Location(s):		
Milepost	Length	Route
21.10 to 27.60	36.50	US-26
27.60 to 42.15	4.55	US-26
57.70 to 57.80	0.10	US-26
		Highway: ACT
		MT HOOD REGION 1 ACT
		WARM SPRINGS REGION 1 ACT
		MT HOOD REGION 1 ACT
		CLACKAMAS
		CLACKAMAS
Current Project Estimate		
Planning	Prelim. Engineering	Right of Way
Year	2019	Utility Relocation
Total	\$1,400,000.00	Construction
		Other
Fund 1	ACFP \$626,112.69	ACFP \$1,946,918.50
Match:	\$71,890.31	\$1,746,130.50
Fund 2	Z001 \$269,190.00	\$199,655.74
Match:	\$20,610.00	
		Project Total
		\$2,946,918.50
Footnote: \$300,000 Culvert and \$2,646,018 HB2017 funds		
Most Recent Approved Amendment		
Amendment No: 21-24-0875	Approval Date: 6/9/2021	
Repealed Action:	Reduce the Construction phase estimate by \$200,000 and move to the Preliminary Engineering phase. Slip Construction to the following fiscal year.	

Additional Details:	Summary of Actions to create Key 22504 <pre> graph LR K20363["Key 20363 I-84: Corbett Interchange - Multnomah Falls Splits \$1.86 million and commits to new Key 22504 Inside MPA = MTIP Action Required for 20363"] K20362["Key 20362 US26: SE Kelso Rd - Frog Lake Sno Park Splits \$998,392 and commits to new Key 22504 Outside of MPA = No action to MTIP for Key 20362"] Savings["Added HB2017 Culvert Program Savings"] K22504["Key 22504 I-84: Corbett Interchange- Multnomah Falls Phase 2 Adds funds from both projects for culvert repairs"] K20363 --> K22504 K20362 --> K22504 Savings --> K22504 </pre>
Why a Formal amendment is required?	Adding a new project to the MTIP requires a formal amendment. The contributions from Key 20363 requires it to be part of the formal amendment
Total Programmed Amount:	Total programming for Key 22504 is \$3,546,648
Added Notes:	ODOT provided cost updates for both 20363 and 20362 as part of the support material providing clear justification that the funding adjustments could occur without negatively impacting either project.

Project 3	I-84: I-205 - Marine Drive		
Lead Agency:	ODOT		
ODOT Key Number:	20410	MTIP ID Number:	70967
Projects Description:	Project Snapshot: • <u>Quick Amendment Summary:</u> The amendment extends the western limits for the project to include an additional area of I-84 that requires paving. There is no scope or cost change as a result. The limits change exceed the maximum allowable for administrative actions which triggers the need for the formal amendment • <u>Metro UPWP Project:</u> No • <u>Proposed improvements:</u> Key 20410 will remove/replace asphalt surface to repair rutted pavement & seal the driving surface of four bridges (#07088A, #07044A, #07043A, & #13514F) on I-84. (HB2017 Project) • <u>Source:</u> Existing project. • <u>Amendment Action:</u> Adjusts extends the western limits for the project from MP 6.80 to be MP 5.54 out to 16.67. No scope change or cost adjustments are required as a result of the limits extension.		

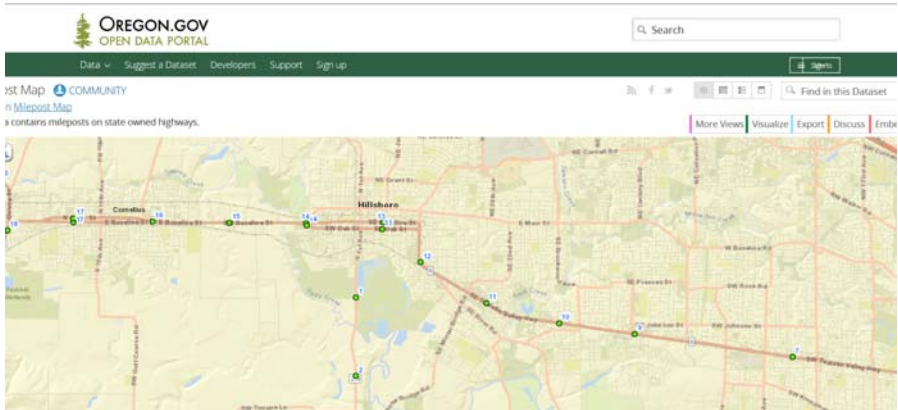
- Additional Amendment Evaluation Required: No.
The project does not add motor vehicle through lane capacity and is considered exempt for air quality and transportation modeling analysis. Additionally, the project cost does not exceed \$100 million.
- Funding:
The funding for the project contains a combination of federal funds and include Interstate Maintenance, National Highway Performance Program funds, ODOT committed Surface Transportation Block (State STBG), and general state funds covering the required match.
- FTA Conversion Code: Not applicable. No transit funds are involved.
- Location, Limits and Mile Posts:
 - o Location: On I-84 in northeast Portland
 - o Cross Street Limits: N/A
 - o Overall Mile Post Limits: MP 5.4 to MP16.67



- Current Status Code: 4 = (PS&E) Planning Specifications, & Estimates (final design 30%, 60%, 90% design activities initiated).
- Air Conformity/Capacity Status:
Key 20410 is a non-capacity enhancing project. It is exempt from air quality conformity analysis per 40 CFR 93.126, Table 2 – Pavement resurfacing and/or rehabilitation
- Regional Significance Status: The project is regionally significant as it contains federal funds and is located on a defined Throughway in the Metro Motor Vehicle Modeling Network
- Amendment ID and Approval Estimates:
 - o STIP Amendment Number: 21-24-1404
 - o MTIP Amendment Number: DC22-05-DEC
 - o OTC approval required: No.
 - o Metro approval date: Tentatively scheduled for January 6, 2022

What is changing?	<u>AMENDMENT ACTION: LIMITS CHANGE</u> Key 20410n is a pavement rehabilitation project on I-84. The pavement in this area was last paved in 2010 and was in relatively good condition in 2015 when the original project scoping was initially done. Even in 2020, there was only minor cracking and no potholes. This pavement is within the limits of the 2024-2027 IM scoping project MLK to I-205 but can't wait until then. Therefore, the project limits are being extended now to include the added area allowing added pavement grind and inlay at west end of project. EB paving will extend to MP 6.53 and WB paving will extend to MP 5.54. Updated MPs: 5.54 - 16.67 (previous MPs in STIP: 6.8 - 16.67). There is no major change in scope or cost changes as a result of the limits change.
Additional Details:	N/A
Why a Formal amendment is required?	The limits extension is over a mile and goes beyond the changes allowed for administrative modifications. As a result, a formal amendment is required.
Total Programmed Amount:	Total programming for Key 20410 remains unchanged at \$13,197,690.
Added Notes:	N/A

Project 4	OR8 at 174th Ave, Armco Ave, Main St and A&B Row OR8 at Armco Ave, Main St and A&B Row		
Lead Agency:	ODOT		
ODOT Key Number:	21608	MTIP ID Number:	71162
Projects Description:	Project Snapshot: • <u>Quick Amendment Summary:</u> The formal amendment completes required scope and funding updates to the following areas: - o Remove pedestrian crossing scope for OR8 at 174th, and Armco Rd. - o Do not design pedestrian crossing at OR8 and 214th. - o Add Illumination at OR8 and Armco Rd. - o Change project name to reflect changed scope. New name: OR8 at Armco Ave, Main St and A&B Row - o Update locations. - o Slip CN to FFY24. - o Add and update funding for the project. • <u>Metro UPWP Project:</u> No • <u>Proposed improvements:</u> The improvements involve various safety related deliverables including signal rebuild and sidewalk installations at the Main St intersection. Install flashing lights at the other intersections to increase safety at these locations.		

	• <u>Source:</u> Existing project • <u>Amendment Action:</u> Update the project scope, and funding. • <u>Funding:</u> The funding consists of federal National Highway Performance Program (NHPP) and Advance Construction funds. The cost updates results in a 21% increase to the project. • <u>FTA Conversion Code:</u> Not applicable. No transit funds are committed to the project. • <u>Location, Limits and Mile Posts:</u> - o Location: On OR8 between western Beaverton to Forest Grove - o Cross Street Limits: N/A - o Overall Mile Post Limits: MP 6.09 to MP 17.66  • <u>Current Status Code:</u> 4 = (PS&E) Planning Specifications, & Estimates (final design 30%, 60%, 90% design activities initiated). • <u>Air Conformity/Capacity Status:</u> The is exempt from air quality conformity analysis per 40 CFR 93.126, Table 2 – Safety - Projects that correct, improve, or eliminate a hazardous location or feature. • <u>Regional Significance Status:</u> Yes. The project is regionally significant as it is located on a Major Arterial in the Motor Vehicle Network and contains federal funds. • <u>Amendment ID and Approval Estimates:</u> - o STIP Amendment Number: 21-24-1404 - o MTIP Amendment Number: DC22-05-DEC - o OTC approval required: No. - o Metro approval date: Tentatively scheduled for January 6, 2022.
What is changing?	<u>AMENDMENT SCOPE CHANGE</u> The formal amendment completes required scope and funding

	adjustments to the project. As a result, the total project cost increases by 21% from \$5,184,284 to \$6,283,817. The adjustments result from ODOT's funding review which indicated that there was not enough funds to cover all proposed scope deliverables. ODOT re-evaluated the project and updated the scope, schedule and budget to move this project forward. The original intent of the project was to include illumination at Armco, not a pedestrian enhancement, so the 74th RRFB scope element is being dropped from the name of the project. The construction phase also slips to FFY 2024 due to the scope adjustments and funding changes. The summary of changes includes the following: • Remove pedestrian crossing scope for OR8 at 174th, and Armco Rd. • Do not design pedestrian crossing at OR8 and 214th. • Add Illumination at OR8 and Armco Rd. • Change project name to reflect changed scope. New name: OR8 at Armco Ave, Main St and A&B Row. • Update locations. • Slip CN to FFY24. • Adjust funding to include: - o Add \$444,532 from HB2017 Safety Leverage funds to PE funds - o Transfer \$495,553 from CN to PE - o Add \$500,000 to PE from SWIP funds - o Add \$150,000 to ROW from SWIP funds.
Additional Details:	N/A
Why a Formal amendment is required?	The scope changes together with the funding changes result in a total project cost that exceeds the 20% cost change threshold and triggers the formal amendment.
Total Programmed Amount:	The total programmed amount increases from \$5,189,284 to \$6,283,817 and represents a 21.09% increase to the project
Added Notes:	N/A

Note: The Amendment Matrix located on the next page is included as a reference for the rules and justifications governing Formal Amendments and Administrative Modifications to the MTIP that the MPOs and ODOT must follow.

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.
- If not directly identified in the RTP's constrained project list, the project is verified to be part of the MPO's annual Unified Planning Work Program (UPWP) if federally funded and a regionally significant planning study that addresses RTP goals and strategies and/or will contribute or impact RTP performance measure targets.
- 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.
 - Programming determined to be reasonable of phase obligation timing and is consistent with project delivery schedule timing.

ODOT-FTA-FHWA Amendment Matrix	
Type of Change	
FULL AMENDMENTS	
1. Adding or cancelling a federally funded, and regionally significant project to the STIP and state funded projects which will potentially be federalized	
2. Major change in project scope. Major scope change includes:	
• Change in project termini - greater than .25 mile in any direction	
• Changes to the approved environmental footprint	
• Impacts to AQ conformity	
• Adding capacity per FHWA Standards	
• Adding or deleting worktype	
3. Changes in Fiscal Constraint by the following criteria:	
• FHWA project cost increase/decrease:	
• Projects under \$500K – increase/decrease over 50%	
• Projects \$500K to \$1M – increase/decrease over 30%	
• Projects \$1M and over – increase/decrease over 20%	
• All FTA project changes – increase/decrease over 30%	
4. Adding an emergency relief permanent repair project that involves substantial change in function and location.	
ADMINISTRATIVE/TECHNICAL ADJUSTMENTS	
1. Advancing or Slipping an approved project/phase within the current STIP (If slipping outside current STIP, see Full Amendments #2)	
2. Adding or deleting any phase (except CN) of an approved project below Full Amendment #3	
3. Combining two or more approved projects into one or splitting an approved project into two or more, or splitting part of an approved project to a new one.	
4. Splitting a new project out of an approved program-specific pool of funds (but not reserves for future projects) or adding funds to an existing project from a bucket or reserve if the project was selected through a specific process (i.e. ARTS, Local Bridge...)	
5. Minor technical corrections to make the printed STIP consistent with prior approvals, such as typos or missing data.	
6. Changing name of project due to change in scope, combining or splitting of projects, or to better conform to naming convention. (For major change in scope, see Full Amendments #2)	
7. Adding a temporary emergency repair and relief project that does not involve substantial change in function and location.	

- Reviewed and initially assessed for Performance Measurement impacts.
- MPO responsibilities completion:
 - o Completion of the required 30 day Public Notification period:
 - o Project monitoring, fund obligations, and expenditure of allocated funds in a timely fashion.
 - o 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 2021 Formal MTIP amendment (DC22-05-DEC) will include the following:

<u>Action</u>	<u>Target Date</u>
• Initiate the required 30-day public notification process.....	December 1, 2021
• TPAC notification and approval recommendation.....	December 3, 2021
• JPACT approval and recommendation to Council.....	December 16, 2021
• Completion of public notification process.....	January 4, 2022
• Metro Council approval.....	January 6, 2022

Notes:

* The above dates are estimates. JPACT and Council meeting dates could change.

** If any notable comments are received during the public comment period requiring follow-on discussions, they will be addressed by JPACT.

USDOT Approval Steps (The below time line is an estimation only):

<u>Action</u>	<u>Target Date</u>
• Final amendment package submission to ODOT & USDOT.....	January 14, 2022
• USDOT clarification and final amendment approval.....	Early February, 2022

ANALYSIS/INFORMATION

1. **Known Opposition:** None known at this time.
2. **Legal Antecedents:**
 - a. Amends the 2021-24 Metropolitan Transportation Improvement Program adopted by Metro Council Resolution 20-5110 on July 23, 2020 (FOR THE PURPOSE OF ADOPTING THE 2021-2024 METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM FOR THE PORTLAND METROPOLITAN AREA).
 - b. Oregon Governor approval of the 2021-24 MTIP: July 23, 2020
 - c. 2021-2024 Statewide Transportation Improvement Program (STIP) Approval and 2021 Federal Planning Finding: September 30, 2020
3. **Anticipated Effects:** Enables the projects to obligate and expend awarded federal funds, or obtain the next required federal approval step as part of the federal transportation delivery process.
4. **Metro Budget Impacts:** None to Metro

RECOMMENDED ACTION:

JPACT approved Resolution 21-5230 on December 16, 2021 and now recommends Metro Council approve Resolution 21-5230 consisting of four projects which impact ODOT allowing the required adjustments to and enable their next federal approval step and/or phase obligation to occur.

(No Attachments)

Agenda Item No. 4.1

Resolution No. 21-5228, For the Purpose of Authorizing an Exemption from Competitive Bidding and Procurement of Construction Manager/General Contractor Services by Competitive Request for Proposals for Demolition of Blue Lake Park Fishing Pier

Resolutions

Metro Council Meeting
Thursday, January 13, 2021

BEFORE THE METRO CONTRACT REVIEW BOARD

RESOLUTION OF THE METRO COUNCIL	)	RESOLUTION NO. 21-5228
ACTING AS THE METRO CONTRACT REVIEW	)	
BOARD, FOR THE PURPOSE OF	)	Introduced by Chief Operating Officer
AUTHORIZING AN EXEMPTION TO THE	)	Marissa Madrigal in concurrence with
COMPETITIVE BIDDING PROCEDURES AND	)	Council President Lynn Peterson
AUTHORIZING PROCUREMENT OF	)	
CONSTRUCTION MANAGER/GENERAL	)	
CONTRACTOR SERVICES BY COMPETITIVE	)	
REQUEST FOR PROPOSALS FOR THE BLUE	)	
LAKE FISHING PIER DEMOLITION PROJECT	)	

WHEREAS, the existing Blue Lake Park pier, built to enclose a swimming area in 1962 and later used to support rental boat operations and fishing, was closed to the public after a 2020 structural assessment identified poor conditions and associated safety risks; and

WHEREAS, Metro staff, in consultation with the project structural engineer and a marine construction contractor, concluded that the full demolition and replacement of the pier is the optimal approach, providing the opportunity to design and build a replacement structure with public input and more flexibility as to the type and location of pier-based public activities; and

WHEREAS, Blue Lake Park fishing pier renovation planning is anticipated to begin in early 2022 and fishing pier demolition in fiscal year 2022-2023; and

WHEREAS, the Metro Area voters approved the 2019 Parks and Nature Bond Measure, thereby creating a program under which a portion of the total Bond Measure proceeds would be distributed to the Metro parks improvement program focusing on reinvesting in regional destinations and providing safe, accessible, inclusive, and welcoming places for people to connect with nature; and

WHEREAS, ORS 279C.335 and Metro Local Contract Review Board Administrative Rule (“LCRB Rule”) 49-0130 require that Metro public improvement contracts be procured through competitive bids, unless exempted by the Metro Council, sitting as the Metro Contract Review Board; and

WHEREAS, Metro’s LCRB Rules 49-0600 to 49-0670 authorize the Metro Contract Review Board to exempt a public improvement contract from competitive bidding and direct the appropriate use of alternative contracting methods that take account of market realities and modern innovative contracting and purchasing methods, so long as they are consistent with the public policy of encouraging competition, subject to the requirements of ORS 279C.335; and

WHEREAS, ORS 279C.335(5)(a) and LCRB Rules 49-0630 through 49-0670 require that the Metro Contract Review Board hold a public hearing and adopt written findings establishing, among other things, that the exemption of a public improvement contract from competitive bidding is unlikely to encourage favoritism or substantially diminish competition for public improvement contracts; and that said exemption will likely result in substantial cost savings to Metro; now therefore,

BE IT RESOLVED that the Metro Contract Review Board:

1. Exempts from competitive bidding the procurement and award of a Construction Manager/General Contractor (“CM/GC”) public improvement contract for the Blue Lake Park fishing pier demolition;
2. Adopts as its findings in support of such exemption the justification, information, and reasoning set forth on the attached Exhibit A, which is incorporated by reference as if set forth in full; and
3. Authorizes the Chief Operating Officer to:
 - 3.1 Prepare a form of Request for Proposals for CM/GC Contractor services that includes as evaluation criteria for contractor selection:
 - Contractor’s proposed fees for pre-construction services
 - Contractor’s proposed overhead and profit for construction services
 - Contractor’s project understanding and proposed project approach
 - Contractor’s record of completion of projects of similar type, scale and complexity, including demonstrated public improvement CM/GC project experience and expertise
 - Contractor’s record of coordinating multi-disciplinary approaches to value engineering challenges
 - Contractor’s record of working with owners and design professionals to identify ways to incorporate long-term operational efficiencies into projects
 - Proposed milestone dates, including but not limited to substantial completion
 - Contractor’s demonstrated quality and schedule control
 - Financial capacity
 - Contractor’s experience in incorporating sustainability construction practices and design into projects
 - Contractor’s demonstrated commitment to workforce diversity and record of use of subcontractor businesses certified by the Certification Office of Business Inclusion and Diversity (COBID)
 - Any other criteria that ensure a successful, timely, and quality project, in the best interest of Metro and in accord with ORS 279C.335(4)(c) and LCRB Rule 49-0640(2)(a), (b) and (c); and
 - 3.2 Following the approval of said form of Request for Proposals and contract by the Office of Metro Attorney, to issue such approved form, and thereafter receive responsive proposals for evaluation; and
 - 3.3 Following evaluation of the responses to the Request for Proposals, authorizes the Chief Operating Officer to execute a CM/GC contract with the most advantageous proposer to implement the Blue Lake Park fishing pier demolition project.

ADOPTED by the Metro Council this ____ day of _____ 2022.

Lynn Peterson, Council President

Approved as to Form:

Carrie MacLaren, Metro Attorney

Blue Lake Park Fishing Pier Demolition - Exhibit A

Findings in Support of an Exemption from Competitive Bidding and Authorizing the Procurement by Request for Proposals of Construction Manager General Constructor (CM/GC) Services for the Blue Lake Park Fishing Pier Demolition

Pursuant to ORS 279C.335(2) and (4), and Metro Code Section LCRB 49-0620 through 49-0660, and 49-0690, the Metro Contract Review Board makes the following findings in support of exempting the procurement of the Blue Lake Park Fishing Pier Demolition from competitive bidding, and authorizing use of a Request for Proposal (RFP) process for a Construction Manager General Contractor (CM/GC) public improvement construction contract:

A. The exemption is unlikely to encourage favoritism or substantially diminish competition.

The Metro Contract Review Board finds that exempting the procurement of the construction of the Blue Lake Park Fishing Pier Demolition from competitive bidding is “unlikely to encourage favoritism in the awarding of public contracts or to substantially diminish competition for public contracts” as follows: The RFP will be formally advertised with public notice and disclosure of the alternative contracting method and will be made available to all qualified contractors. Award of the contract will be based on the identified selection criteria, and dissatisfied proposers will have an opportunity to protest the award. Full and open competition based on the objective selection criteria set forth in the Metro Contract Review Board resolution will be sought, and the contract will be awarded to the most advantageous proposer. Competition for the RFP will be encouraged by: Posting on Bid Locker (Metro Procurement’s online procurement site); public advertisements placed in the Portland Business Tribune and other minority business publications; performing outreach to local business groups representing minorities, women, and emerging small businesses; and by contacting contractors known to Metro to potentially satisfy the RFP criteria. The subcontractor selection process will be a low bid competitive method for contracts by requiring a minimum of three bids per scope, unless there is an approved exception. Competition among subcontractors will be encouraged by contacting local sub-contractors, including COBID firms, and notifying them of any opportunities within their area of expertise and by performing outreach to local business groups representing minorities, women, and emerging small businesses.

B. The exemption will likely result in substantial cost savings to Metro.

The Metro Contract Review Board finds that exempting the procurement of the construction of the Blue Lake Park Fishing Pier Demolition from competitive bidding will likely result in substantial costs savings to Metro, considering the “type, cost and amount of the Contract,” the 14 factors required by ORS 279C.335(2)(b), and the “additional findings” per Metro Local Contract Review Board (LCRB) Administrative Rule 49-0630(3)(B) as follows:

Type, Cost and Amount of the Contract: (type of project, budgeted/expected overall cost (of project), budgeted/expected contract amount)

The CM/GC project delivery model is a common public improvement procurement practice. Area agencies such as City of Portland, Multnomah County, Tri-Met, and Port of Portland utilize the CM/GC process for their large, complex public improvement projects. In CM/GC projects the General Contractor becomes a part of the project team during the design process in order to provide constructability, logistics and value engineering expertise to the construction documentation process. CM/GC offers a distinct advantage to Metro over traditional design-bid-build (low bid) method in its ability to obtain

Blue Lake Park Fishing Pier Demolition - Exhibit A

enhanced participation by COBID contractors. The current rough-order-of-magnitude estimate for the entire project is \$1 million.

Statutory Factors

1. **Number of entities available to bid:** This factor is unaffected by exemption from competitive bidding. Regardless of procurement method, there are numerous firms interested in participating in the procurement, many of which would have bid on the project in the absence of the exemption from competitive bidding.
2. **Construction budget and future operating costs:** Using an RFP to select a General Contractor will allow Metro to obtain cost reductions through pre-construction services by the contractor during the design phase, including a constructability review, value engineering, and other services. Involving the contractor early in the design process fosters teamwork that results in a better design, fewer change orders, and faster progress with fewer unexpected delays, resulting in lower costs to Metro. The potential for faster progress and an earlier completion date will also help Metro avoid the risk of inflationary increase in materials and construction labor costs. Contractor constructability review also allows for an ongoing review of the long term operating costs of design options, allowing for midcourse design changes, leading to a project having lower long-term operating, maintenance and repair costs.
3. **Public Benefits:** The procurement of a CM/GC construction contract through the RFP process will help realize Metro's goal of obtaining COBID participation by enabling a qualitative review of proposers' approach to COBID outreach and mentoring partnerships.
4. **Value Engineering:** The process will enable the contractor to work with the project engineer and Metro staff to help reduce construction costs by providing early input and constructability review to designers, avoiding costly redesign and change orders, and providing opportunities for the engineers and contractor to work together on both practical and innovative solutions to meeting the project budget. This type of contract will allow the designers to more easily explore with the contractor the feasibility of innovative design solutions and incorporate ongoing value engineering.
5. **Specialized Expertise Required:** The contractor and subcontractors must be able to demonstrate in their proposal that they have experience with marine construction (in-water work) and the myriad associated jurisdictional requirements, park facilities, and that they have demonstrated successes with subcontractor equity, have successfully completed public improvement projects, and understand the logistics of general public and staff traffic control, access, removing demolished materials, etc. The selection of a contractor with such expertise to perform the project will result in a substantially lower risk to Metro, because it increases the likelihood of the project being completed on or ahead of schedule, resulting in lower costs and increased benefit to the community. The ability to factor expertise and experience into contractor selection is inherent in the RFP process but is not part of the traditional low bid process.
6. **Public Safety:** The CM/GC contracting process will enable the contractor to work with the project engineer and Metro staff to plan for minimizing safety hazards and conflict between the project and ongoing operations by providing early input into issues of project phasing, equipment and material staging areas, construction access and scheduling. Such integrated early planning efforts are expected to limit risks to public and Metro staff safety. The ability to factor safety performance on

Blue Lake Park Fishing Pier Demolition - Exhibit A

similar projects into contractor selection is inherent in the RFP process but is not part of the traditional low bid process.

7. **Reduces risk to Metro and the public.** The risks to Blue Lake Park's ongoing operations posed by the inability of the contractor to meet the schedule deadlines will be reduced by the selection of the contractor based on the demonstrated ability to perform the work as specified and based on successful prior experience working safely, effectively and efficiently in or near a similar environment where Metro staff and the public are present, rather than awarding the project to the low bidder.
8. **Exemption's effect on funding:** Does not apply.
9. **Better Control of Impact of Market Conditions on Cost and Time to Complete:** Does not apply.
10. **Technical complexity:** The exemption will allow Metro to select a General Contractor and subcontractors that have demonstrated technical expertise, knowledge, and experience with the logistical challenges of demolition and marine construction in a similar setting, all of which can be factored into the contractor selection in the RFP process. The selection of a contractor with demonstrated experience and success in implementing similar projects will result in a substantially lower risk to Metro, because it increases the likelihood of the project being completed on budget, with fewer construction delays and change orders, resulting in lower costs. The RFP process will take into account each contractor's past performance and technical knowledge.
11. **New construction, renovation or remodel:** There are opportunities—if Metro engages a Contractor early in the process—to coordinate and co-design a phased solution that serves the public at no additional cost. A large cost of this project is the logistics of getting equipment to the pier structure. There is an opportunity to work cooperatively with the Contractor and Engineer to create a land-based approach—a temporary work dock structure—that can be left in place and serve as a safe, temporary, accessible fishing pier. This structure would be designed and built with this dual purpose in mind and bring the added benefit to Metro of providing accessible public fishing at the lake while design of a new pier is underway. The Blue Lake Park Fishing Pier Demolition is tentatively slated to start in FY 22-23.
12. **Occupancy during construction:** Blue Lake Park will be occupied and operational during construction. The CM/GC contracting process will enable the contractor to work with the project engineer and Metro staff to minimize conflict between the project, park guests and park operations by providing early input into issues of project phasing, equipment and material staging areas, construction access and scheduling. Such integrated early planning efforts are expected to limit conflicts and thus reduce the risk of construction delays and costly change orders.
13. **Phased Construction Work:** Part of the CM/GC's pre-construction work will be determining whether the project can be conducted in phases, allowing for early work amendments to start on some phases while finalizing overall design, which ultimately saves time on the overall project and may mitigate impact to ongoing operations. Early work phases are expected to uncover latent conditions at the project site that, once exposed, will then be addressed efficiently and less expensively during ongoing design, avoiding costly redesigns and change orders.

Blue Lake Park Fishing Pier Demolition - Exhibit A

14. **Availability of personnel, consultant and legal counsel with CM/GC expertise.** The Office of Metro Attorney, Project Manager, and Project Engineer have the necessary qualifications and expertise to negotiate, administer, and enforce the terms of Metro's CM/GC public improvement contract, including prior experience governing large CM/GC projects and managing them to a successful completion.

Additional Findings:

1. Industry practices, surveys, trends.

The industry-accepted benefits of the CM/GC method include:

- Results in a better design that meets the owner's objectives
- Encourages competition, especially for COBID subcontractors
- May be completed in a faster time frame
- When skillfully managed, costs less than a design-bid-build project that is designed and constructed in the traditional manner due to higher likelihood of constructability of design and opportunities for value engineering early in the design process.
- Reduces the risks of delays, cost overruns, and disputes
- Limits the number of change orders for unforeseen conditions

2. Past experience and evaluation of Metro CM/GC projects.

The \$40 million OCC Plaza & Renovation project was substantially complete in October 2019. The benefits to the OCC Plaza & Renovation project achieved through the CM/GC process include:

- Cost reductions through pre-construction services by the contractor during the design phase, including a constructability review (e.g., materials, phasing, layout and design) and value engineering.
- Phased construction was able to start while integrated delivery planning for future phases was still being developed. This kept the project on schedule and allowed for ongoing construction activities during daily OCC business operations.
- Six percent of the Guaranteed Maximum Price in change orders. On a project of this size and complexity, one would ordinarily expect a ratio of at least ten percent or greater in change orders increasing the cost of construction.
- The project exceeded 50 percent COBID subcontractor participation. This unprecedented achievement accounts for more than \$16 million going to the local COBID subcontractor community.
- With pre-construction time to develop community partnerships and leverage relationships with subcontractors, the project met workforce diversity goals achieving 35 percent of project work hours attributed to non-white workers.
- Partnering with the OCC through preconstruction planning and ongoing coordination, the OCC was able to safely maintain normal business operations: during 14 months of Plaza & Renovation Project construction the OCC achieved record event sales and attendance.

3. Benefits and drawbacks of CM/GC to the Blue Lake Park Fishing Pier Demolition.

The CM/GC method provides an invaluable means of addressing the risks to Metro presented by the project's site conditions and timeline.

By involving the contractor extensively during the design process, Metro will be able to better account for, plan around, and address the above factors prior to and during construction. This avoids project delays and expensive change orders, helps to reduce liability and revenue risks to

Blue Lake Park Fishing Pier Demolition - Exhibit A

Metro, and provides a foundation of cooperation upon which a high-quality result may be achieved on schedule and on budget. Pre-construction services provided during the process include a constructability review, value engineering, and other services during design. Involving a contractor during the design fosters teamwork that results in a better design, faster progress with fewer delays and lower risk of costly change orders.

Given Metro's favorable experience with CM/GC, staff foresees no drawbacks to adopting the CM/GC method to implement the Blue Lake Park Fishing Pier Demolition.

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 21-5228 OF THE METRO COUNCIL ACTING AS THE METRO CONTRACT REVIEW BOARD FOR THE PURPOSE OF AUTHORIZING AN EXEMPTION TO THE COMPETITIVE BIDDING PROCEDURES AND AUTHORIZING PROCUREMENT OF CONSTRUCTION MANAGER/GENERAL CONTRACTOR SERVICES BY COMPETITIVE REQUEST FOR PROPOSALS FOR THE BLUE LAKE FISHING PIER DEMOLITION PROJECT

Date: December 8, 2021
Department: CPMO
Meeting Date: January 13, 2022

Prepared by: Brent Shelby,
Brent.Shelby@oregonmetro.gov
Presenter(s): Brent Shelby, Julie Hoffman
Length:

BACKGROUND

The existing Blue Lake Park pier was built to enclose a swimming area in 1962. When lake swimming activities moved westward to a new beach, the pier remained to support rental boat operations and fishing. After a structural assessment in late 2020, the pier closed to the public due to very poor condition of the structure and associated safety risks.

Metro staff met with the project structural engineer and a marine construction contractor to review options to demolish and replace the pier or rehabilitate the existing pier. The conclusion at the meeting was that rehabilitation, with higher risks, unknown savings, if any, as well as constraints in design, location and lifespan, was not the optimal approach. Full demolition and replacement—though potentially resulting in a higher upfront cost—provides opportunity to design and build with public input and more flexibility as to type and location of pier-based public activities (including fishing).

Blue Lake Park renovation planning, beginning in early 2022, will include robust public engagement to create a future vision for Blue Lake Park. The new pier structure will be part of the public conversation around what park guests' engagement with the lake waterfront will be. Pier fishing at Blue Lake Park will continue to be closed until a new pier is built, or a temporary facility is installed.

Marine demolition work is highly technical, logistically complicated, and involves a number of jurisdictional authorities; and as an operating public site, contractors working at Blue Lake Park must minimize conflict between the project, park guests and park operations. A Construction Manager/General Contractor (CM/GC) project delivery method, wherein the General Contractor partners with the team during design, is beneficial by providing early

input into design, permitting, project phasing, equipment and material staging areas, construction access, and scheduling.

Furthermore, there is an opportunity to work cooperatively with the CM/GC and engineer early in the process to create a temporary work dock facility that can be left in place and serve as a temporary accessible fishing pier. This structure would be designed and built with this dual purpose in mind and bring the added benefit to Metro of providing interim accessible public fishing at the lake while planning, design, and construction of a new pier is underway. The Construction Manager/General Contractor (CM/GC) project delivery method, whereby the contractor joins the design process, would enable us to find opportunities that bring additional benefit to the project.

ANALYSIS/INFORMATION

1. Known Opposition: None.

2. Legal Antecedents: LCRB Rule 49-0620(1), 49-0130, 49-0640, and 49-0690; Oregon Revised Statutes 279C.335 and ORS 279C.337.

3. Anticipated Effects: Public procurement process will be open and competitive, but items in addition to cost will be considered in the awarding of the contract. Increased use of COBID subcontractors is anticipated.

4. Budget Impacts: The CM/GC project delivery method provides safeguards for schedule and cost control of the project, including early involvement by construction contractor in the design process, as well as reducing the risk of substantial change orders.

RECOMMENDED ACTION

Metro Council, acting as the Local Contract Review Board, approves an exemption from competitive bidding for the Blue Lake Park Fishing Pier Demolition project, and authorizes procurement of a Construction Manager/General Contractor by request for competitive proposals, and authorizes the execution of the resulting CM/GC contract by the Chief Operating Officer in a form to be approved by the Office of Metro Attorney.

ATTACHMENTS

Exhibit A: Findings in Support of an Exemption from Competitive Bidding and Authorizing the Procurement by Request for Proposals of Construction Manager General Constructor (CM/GC) Services for the Blue Lake Park Fishing Pier Demolition

Agenda Item No. 4.2

Resolution No. 22-5232, For the Purpose of Adopting 2022 Federal and State Legislative Agendas

Resolutions

Metro Council Meeting
Thursday, January 13, 2021

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ADOPTING 2022) RESOLUTION NO. 22-5232
FEDERAL AND STATE LEGISLATIVE)
AGENDAS) Introduced by Council President Peterson

WHEREAS, Metro has an interest in the bills, policies, and discussions before the 2022 Oregon Legislature and the 117th Congress; and

WHEREAS, the Metro Council and Metro staff will represent Metro's interests during the upcoming legislative session and the current Congress through meetings, engagement, and legislative discussion; 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 at both the state and federal level; and

WHEREAS, the attached Exhibit A of this resolution lists specific expected and potential 2022 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 in preparation for the 2022 State Legislative Session; 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 throughout the 2022 State Legislative Session; and

WHEREAS, the attached Exhibit C identifies key policy priorities and issues of concern regarding potential legislation and policy discussion, in order to provide guidance to staff and Metro Council for the remainder of the 117th Congress; 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 2022 Oregon Legislature and the 117th Congress consistent with Exhibits "A," "B," and "C" attached hereto.

ADOPTED by the Metro Council this _____ day of January, 2022.

Lynn Peterson, Council President

Approved as to Form:

Carrie MacLaren, Metro Attorney

METRO COUNCIL 2022 LEGISLATIVE PRINCIPLES¹



GENERAL PRINCIPLES:

1. **Successful Communities:** Metro supports policy and funding solutions that facilitate 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 climate change; clean air, clean water and healthy ecosystems; and equitable distribution of the burdens and benefits of growth and change.²
2. **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. Metro therefore supports legislation that acknowledges past discrimination, addresses current disparities and promotes inclusion in public programs, services, facilities and policies.³
3. **Climate Justice:** Metro supports efforts to combat and adapt to climate change and to meet the state's goals for reducing greenhouse gas emissions. To this end, Metro supports state policy and funding solutions that can help to reduce emissions in all of its main lines of business: land use and transportation planning and investment, housing and homeless services, consumption and waste management and solid waste management, parks and natural areas, and operation of visitor venues.
4. **Pre-emption:** With respect to issues related to matters of regional concern, Metro's policy and funding authority should not be pre-empted or eroded.
5. **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.

SPECIFIC PRINCIPLES:

HOUSING:

6. **Affordable Housing and Homelessness:** Metro supports efforts to ensure that housing choices are available to people of all incomes in every community in our region; to reduce the number of households that are burdened by the combined costs of housing and transportation; to support people experiencing homelessness or at risk of losing housing; and to increase affordable opportunities for home ownership.⁴ To achieve these outcomes, Metro supports legislative actions consistent with Oregon's land use laws that increase the supply of both regulated affordable housing and market-rate housing; provide funding for both housing development and services that support lower-income renters and people experiencing

homelessness; and provide reasonable protections for renters against arbitrary and unfair actions.

LAND USE AND URBAN GROWTH MANAGEMENT:

7. **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.⁵ The Legislature should exercise restraint and care when considering changes to Oregon's land use system.
8. **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.
9. **Efficient Use of Existing Urban Land:** Land within the urban growth boundary should be used efficiently before the boundary is expanded.⁶ Metro supports policy and funding strategies to facilitate efficient use of existing urban land, including investments in brownfield cleanup and industrial site readiness, as well as policy and zoning reforms that authorize and/or encourage more efficient development in residential and commercial areas.
10. **Need:** The UGB should not be expanded in the absence of demonstrated need.⁷
11. **Integration of Land Use and 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. **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:

14. **Life Cycle Approach:** Metro supports efforts to minimize the health, safety, environmental, economic and social impacts associated with consumer products and packaging throughout all stages of a product's life cycle, beginning with resource extraction and continuing through design, manufacturing, consumption and disposal.⁹
15. **Product Stewardship/Producer Responsibility:** Metro supports legislation providing that whoever designs, produces, sells or uses a product bears responsibility for minimizing the product's environmental impact throughout all stages of the product's life cycle. Under this market-based approach, the life-cycle costs of a product are internalized into its price rather than being forced onto the general public. This approach also provides an incentive for manufacturers to design and produce their goods in a way that minimizes waste, environmental impact and management costs.
16. **Equity in the Solid Waste System:** The Regional Waste Plan aims to eliminate disparities experienced by people of color and historically marginalized communities from the full life

cycle of products and packaging used and disposed in the region. Metro supports legislation that achieves this by advancing: community restoration, community partnerships and community investment; access to recycling, waste and reuse services and information; good jobs with improved worker health and safety, compensation and career pathways; business opportunities in the local economy; and community health through minimized impacts from system operations - locally and in end markets - and from toxic chemicals in products and packaging. Legislation should require the establishment of targets, standards and compliance processes, as appropriate, to ensure progress toward equity goals.

TRANSPORTATION:

- 21. 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.
- 22. Climate Justice:** 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. The state should provide financial support for implementation of the Climate Smart Strategy.
- 23. Safe and Equitable Transportation:** Our region has adopted policies and developed programs to make it safer to walk and bike to school and other destinations, reduce serious traffic crashes and deaths, and reduce the disproportionate impact of traffic crashes and traffic enforcement in low income communities and communities of color.¹⁰ Metro supports legislation that advances safe and equitable transportation, including more effective and equitable enforcement of speed limits and other safety regulations, greater investment in infrastructure that improves safety (especially in disadvantaged communities), and greater authority for local governments to safely manage their transportation networks.

PARKS, NATURE AND CONSERVATION:

- 24. 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.
- 25. 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.
- 26. Conservation Education:** Metro supports efforts to provide stable and reliable funding to conservation education.

ECONOMIC PROSPERITY:

- 28. Metro Venues:** Because the Oregon Convention Center, Expo Center, Portland's Centers for the Arts and Oregon Zoo contribute millions of dollars to the state and regional economies, Metro supports policy and funding solutions that facilitate the success of these venues in attracting visitors and enhancing the quality of their experiences.

AGENCY OPERATIONS:

- 29. 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.
- 30. Disaster Resilience:** 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 RFP Chapter 1 (Land Use).

³ [Strategic plan to advance racial equity, diversity and inclusion](#).

⁴ RFP Policy 1.3 (Housing Choices and Opportunities).

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

⁶ RFP Policy 1.1 (Compact Urban Form).

⁷ RFP Policy 1.9 (Urban Growth Boundary).

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

⁹ [2030 Regional Waste Plan](#), page 11.

¹⁰ [2018 Regional Transportation Plan, Chapter 3](#), Safety and Security Policies 1-9 and Transportation Equity Policies 1-7.

METRO COUNCIL LEGISLATIVE PRIORITIES
2022 Legislative Session



SHORT SESSION PRIORITY ITEMS
(Legislation we know will be introduced)

- **COVID response and economic recovery:** Support legislation that addresses ongoing COVID-19 public health response and economic recovery including policy changes and funding assistance in line with the Comprehensive Economic Development Strategy and additional business, economic development, and housing support.
- **Product stewardship for mattresses:** Support legislation that requires mattress companies to set-up and operate a program for managing and recovering materials from discarded mattresses.
- **Columbia River levees:** Support legislation that address technical changes and provides funding support to facilitate the transition of the Columbia River levee system management to the Urban Flood Safety and Water Quality District.

ON-GOING PRIORITIES
(Legislation we anticipate could be introduced)

- **Affordable housing and addressing homelessness:** Support efforts to increase state housing funding, improve tenant protections, expand affordable home ownership options, increase home ownership for BIPOC households, advance solutions to end homelessness, and provide additional tools and authority to local governments to address housing supply and affordability.
- **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 or to distort the process of assessing land need by mandating inaccurate analysis.
- **Transportation:** Support legislative decisions that: secure ongoing state funding for investments to improve safety and multimodal mobility on state highways that operate as urban arterials; advance transportation projects in ways that accommodate community concerns, measurably reduce greenhouse gas emissions and minimize other environmental impacts; and address ongoing harm to communities of color caused by past and current transportation policies and investments.
- **Racial justice:** Support legislation that acknowledges past and ongoing discrimination, eliminates current disparities and promotes substantive inclusion in decisions about public programs, services, facilities and policies, including Black, Indigenous and People of Color-led policy and funding proposals that create meaningful law enforcement reform.
- **Climate justice:** Support state policy and funding solutions that reduce emissions in all of Metro's main lines of business: land use and transportation planning and investment, housing and homeless services, consumption and waste management and solid waste management, parks and natural areas, and operation of visitor venues.



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METRO COUNCIL 117th CONGRESS FEDERAL LEGISLATIVE AGENDA

The Metro Council 2021-2022 Federal Legislative Agenda lays out the principles, priorities, and issues for Metro to track at the regulatory and legislative level for the 117th Congress. This Congress represents a unique time for our federal government and for Metro: there are significant needs to ensure that we emerge from the COVID-19 public health pandemic economically stronger, more equitable, more sustainable, and more prepared to tackle the climate change, inequality, and racial justice crises. To do so will require coordinated, focused policies and sustained investment at all levels of government. This document captures the key needs and goals of the greater Portland area as we embark upon the recovery our region needs.

METRO COUNCIL 117th CONGRESS FEDERAL LEGISLATIVE PRINCIPLES

The Metro Council 2021-2022 Federal Legislative Principles are the key values that guide Metro's engagement on any issue and apply to all our policy and funding priorities.

ADVANCE RACIAL EQUITY

Metro envisions a region and state where a person's race, place of birth, ethnicity or zip code does not predict their future prospects and where all residents can enjoy economic opportunity and quality of life. Metro therefore supports policies that acknowledge past discrimination (including using financial compensation to address past disparities, theft, and broken promises at the federal, state, and local level), eliminate current disparities, and promote inclusion and accessibility in public programs, services, facilities and policies. Metro supports removing barriers, through targeted universalism-based policies, to the full participation of Black, Indigenous, and immigrant communities as well as all communities of color in economic and social opportunities. Metro also recognizes the need for disaggregated data to help decision-makers better understand the needs and challenges faced by Black, Indigenous and People of Color, and efforts to center those lived experiences in decision-making.

SUPPORT GOVERNMENT TO GOVERNMENT TRIBAL RELATIONS

Support Government-to-Government Tribal Relations: Metro acknowledges centuries of systemic harm to our tribal partners, including genocide, forced land removal, land and property theft, and the breaking of agreed-upon treaty rights. These actions were supported and often carried out by governments at the federal, state, regional, and local levels. Metro will track and advocate for strengthening requirements and incentives regarding government to government engagement and other initiatives that are intended to expand the role that tribal partners and indigenous peoples have in government decision-making.

TACKLE CLIMATE CHANGE, RESTORE CLIMATE INTEGRITY

Metro supports aggressive efforts, policies, and bold investments to combat and adapt to climate change and to reduce greenhouse gas emissions at the local, regional, state, national, and international levels. Metro advocates for policies, programs, and projects that incentivize or require greenhouse gas emissions reduction, advance planning efforts to reduce greenhouse gas emissions and support climate adaptation, and facilitate data collection to improve climate and air pollution monitoring. Metro also supports policies that use possible revenue from carbon reduction fees to support family wage jobs, job training, transportation investments that reduce greenhouse gas emissions, and climate pollution mitigation programs.

FACILITATE REGIONAL COORDINATION AND GOVERNANCE

Support Regional Planning and Coordination: Many of our country's challenges are big and complex. While cities and counties play a key role in enacting policy change and improving the lives of their constituents, many of the most pressing issues require coordination between cities, counties and other local forms of government. Metro supports policies that advance regional coordination on policy challenges that ignore boundaries and require cooperation and alignment among cities and counties, particularly those related to climate change, land use policy, housing affordability and availability, transportation planning, waste management, and conservation.

PROMOTE 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.

PROTECT AND INCREASE FEDERAL FUNDING FOR OUR REGION

To ensure a prosperous economy, a clean and healthy environment, and a high quality of life for all of our residents, Metro and our partners must have the sustainable financial resources to provide quality public services and advance the principles and goal discussed above. This includes protecting existing federal funding, and supporting and seeking funding opportunities that align with Metro's Six Desired Outcomes and other regional priorities. After decades-long disinvestment at the federal level, the federal government must be a partner in tackling the looming challenges of economic inequality, systemic racism, climate change, and recovering from the economic impacts of the COVID-19 pandemic.

METRO COUNCIL 117th CONGRESS FEDERAL LEGISLATIVE PRIORITIES

Metro's Legislative Priorities reflect our key federal advocacy efforts. These represent the bulk of Metro's federal engagement for the 117th Congress, although other efforts may emerge in response to unforeseen opportunities.

Affordable Housing

Unified control of Congress for the first time in more than a decade is likely to lead to a more robust discussion about federal housing policy and ways that the federal government can be more supportive of local efforts to address chronic homelessness in the U.S. This will likely include the rollback of the Faircloth Amendment (which forbids the construction of public housing projects), increased interest in the intersection of transit and housing through legislation like the More Housing Near Transit Act, and efforts at improving the Affordable Housing Tax Credit. In addition, the Biden Administration will likely look for ways to expand use of existing programs, such as the Low-Income Housing Tax Credit, and will roll back Trump Administration policies and guidance that limited or restricted eligibility for federal housing assistance.

- **Housing Affordability:** Metro supports policies that advance housing affordability, increase investments in regulated affordable housing programs to meet the national identified need, and provide diverse housing choices. This includes eviction moratoriums during times of national crisis, rental support and housing vouchers, and increased funding for services to help people stay in their homes. In order to reduce the barriers to home ownership, Metro also supports efforts to strengthen regulation of home mortgages and predatory lending practices. Metro believes all of these policies should also help dismantle racist housing policies and help people of color find safe, stable, and affordable housing. As part of that effort, Metro supports efforts to enforce and strengthen the Affirmatively Furthering Fair Housing rule.
- **Regional Housing Principles for National Housing Solutions:** The National Housing Solutions for Greater Portland policy proposals highlight the need to increase the supply of affordable housing coupled with accessible and high-quality wrap around services to ensure that everyone can find a place to call home. These principles were created in partnership with our region's Housing Authorities and Continuum of Care

providers to identify shared housing values amongst regional partners and will help guide Metro's engagement with housing policy at the federal level.

Economic Rebuilding

The Biden Administration's Build Back Better agenda includes a strong focus on workforce training and development, and using federal funds to help workers, as well as small businesses, regain stronger footing. Congress is expected to consider progressive legislation including possible paid family leave, a higher federal minimum wage, and worker training programs.

- **Regional Economic Recovery Plan:** The bi-state Regional Economic Recovery Strategy identifies key investments and tactics the region is pursuing in order to emerge from the COVID-19 pandemic economically more robust, more resilient, and more equitable. The Strategy identifies key strategies and focuses on the need to help small businesses recover and grow, advance economic mobility through workforce training opportunities for individuals, and support families and children through better childcare and workforce policies, with an urgent focus on building opportunities and long-term wealth creation for Black, Indigenous, and People of Color (BIPOC). Metro stands ready to support efforts identified by the Greater Portland Economic Development Plan and the Greater Portland Economic Development District Implementation Workgroup as key priorities to help the region in its economic recovery.
- **Workforce:** Ensuring that the benefits of a growing and green economy are equitably distributed means ensuring that our workforce and workforce training programs are focused on ensuring women and BIPOC communities can fully participate and succeed. As Metro advances the Construction Career Pathways program in the greater Portland area, we encourage the federal government to support investments in regional training programs and changes in local hiring regulations to make it easier for local agencies and hiring partners to use public investment to ensure that people of color can find employment and advance their careers.
- **Metro Venues:** Due to the economic impacts of the COVID-19 pandemic, Metro may need ongoing support for our visitor-dependent entities, such as the Portland's Centers for the Arts, the Oregon Zoo, and the Convention Center. These venues are regional assets that contribute millions of dollars to the state and local economies, and are key to regional economic recovery. As necessary, we support federal aid to facilities that provide for public access to arts, education, and culture and boost tourism, in order to help these facilities survive the COVID 19 pandemic.

Safe and Reliable Transportation

Metro Council and JPACT have worked together to develop a robust federal agenda to help the region build and operate the transportation projects necessary to reach our

Climate Smart goals, our resiliency projects, our maintenance projects, our Vision Zero goals, and ongoing congestion in the greater Portland region.

- **Innovative and Stable Transportation Funding:** In order for our transportation system to tackle our region’s biggest challenges, including slowing climate change, increasing traffic safety, advancing racial equity, and supporting everyone’s ability to move around our region safely, affordably, and easily, the region needs a robust and multimodal transportation funding approach. Metro supports an increase in overall transportation funding, investments in a safe, electric, 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. Given the significant underinvestment in transit at the federal and state levels as compared to what is needed to implement the Climate Smart Strategy, Metro particularly supports increased investment in transit capital and operations.

Given the need for long-term, stable transportation funding sources, Metro supports innovative approaches, including congestion pricing, that better connect system performance, outcomes such as increased safety, reduced climate pollution or improved access for people of color, and road usage, with transportation funding mechanisms. There should be funding and policy changes to support exploring these innovative revenue mechanisms at the federal, state, and regional level, and ensuring that revenue from these innovations supports a cleaner, more equitable transportation system.

In addition, the region has spent two years identifying key transportation needs through the Let’s Get Moving process; funding for the projects and programs in that proposal is a key interest for Metro. Metro supports policies that make it easier to seek funding for these projects, particularly the corridor-long transit projects, and in general supports efforts to increase the transportation funds available at the regional level in order to advance regional goals around reducing greenhouse gas emissions and building a safe, equitable, affordable transportation system.

- **Joint Policy Advisory Committee on Transportation (JPACT) Federal Legislative Agenda:** This agenda has included policies to support Vision Zero at the federal level, increase transit funding and funding for Safe Routes to Schools, provide set-aside funds for orphan highways, and provide funding for specific regional projects. Metro supports these policies as approved by JPACT and the Metro Council.
- **Coordinated Transportation Planning:** Metro supports policies and funding that highlight the importance of equitable, comprehensive, regional transportation planning; connect transportation, housing, and economic development; and that increase accountability for planning and funding decisions through stronger performance metrics at the federal level.
- **Trails and Outdoor Recreation Funding:** As both a parks operator and a regional planning agency, Metro supports increasing federal funding to plan, design, and build non-motorized trails and trail systems for recreation and transportation purposes.

Clean Air, Clean Water, and Healthy Ecosystems

The Biden Administration has been very clear that fighting climate change is a key priority, and this includes efforts to protect clean air and clean water from climate pollution and other toxics. This is likely to begin with a focus on undoing many of the Trump-era environmental rollbacks, but will also include additional efforts to strengthen the Clean Water and Clean Air Acts, incorporate an environmental justice lens onto federal decision processes, and better account for the cost of externalities, such as climate pollution, in federal rulemaking. The Department of Interior is also expected to act as a strong steward, with a focus on supporting access to and preserving the long-term health of our public lands.

- **Clean Air, Clean Water, and Wildlife Habitat:** 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. Metro supports regulatory action and funding efforts that increase access to open spaces, reduce air, water, and climate pollution, and protect vulnerable habitat.
- **Safe, Healthy, Sustainable Products and Product Disposal:** Metro supports legislative efforts to ensure that whoever designs, produces, sells or uses a product bears responsibility for minimizing the product's environmental impact throughout all stages of the product's life cycle, particularly when the product involves the use or disposal of toxic substances. Under this market-based approach, the life-cycle costs of a product are internalized into its price rather than being forced onto the general public. Metro supports efforts to minimize the health, safety, environmental, economic and social impacts associated with consumer products and packaging throughout all stages of a product's life cycle, beginning with resource extraction and continuing through design, manufacturing, consumption, recycling, and disposal.
- **Open Space Preservation and Access:** The COVID 19 pandemic and the increased vulnerability to natural hazards due to climate change have both demonstrated the need for open space to facilitate safe, accessible outdoor recreation and protect natural systems that increase community and ecosystem resiliency and recovery. Metro supports efforts to increase funding for state, regional, and local entities to protect and preserve open space.
- **Willamette Falls:** As a key partner in the Willamette Falls Legacy project, Metro has successfully negotiated continued public access and development of a riverwalk in partnership with the new property owner; the Confederated Tribes of Grand Ronde. The restoration and redevelopment of the abandoned mill site will require significant time and funding. Metro will support efforts led by the Confederated Tribes of Grand Ronde and the Willamette Falls Trust to pursue federal funding efforts to support projects such as Phase 2 of the Riverwalk, cleanup of environmental contaminants on-site, restoration of key habitat, protection of economic development opportunities, public access, and co-development of facilities that can be used by Tribal members and the public. Metro also supports

funding efforts to resolve long term issues with the Willamette Falls Locks, which are under the jurisdiction of the Army Corps of Engineers.

METRO COUNCIL 117th CONGRESS FEDERAL LEGISLATIVE ISSUES TO TRACK

Metro's Federal Legislative Issues to Track are policies that the agency supports, but either are not top priorities or are not expected to have a lot of opportunity for Metro to engage in during the 117th Congress.

- **Disaster Preparedness:** Metro supports policy and funding 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. This includes investment in transportation and waste removal infrastructure, long-term planning efforts, and policies to support other immediate and long-term recovery needs, such as those identified in the regional Emergency Transportation Resiliency Plan.
- **Waste Prevention Innovation and Authority:** Metro supports efforts to align federal policy with best practices in waste prevention and recycling, but any efforts to create standard guidance, whether administrative or legislative, must support the role of states and localities to innovate and go beyond what is federally required.
- **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.
- **Conservation Education:** Metro supports efforts to provide stable and reliable funding for conservation education.
- **Tools to Advance Better Land Use Planning:** The federal government has limited tools to engage in land use planning, but Metro supports efforts to advance sustainable, equitable land use planning at the national level.
- **Brownfields:** As a regional partner in brownfield cleanup, Metro supports legislative efforts and funding efforts to expand brownfield cleanup efforts, particularly in urban areas, and in areas where the pollution impacts disproportionately hurt communities of color.
- **Clean Up of Portland Harbor:** Metro will monitor developments and work with regional partners to support the cleanup of the Portland Harbor and address its Superfund status, as well as policy changes in the Water Resources Development Act that may have implications for efforts to clean up and revitalize properties in the Portland Harbor.
- **Recycling and International Agreements:** As international agreements, trade negotiations, and other international concerns impact our region's waste and recycling operations, Metro engages in these conversations when necessary and productive.
- **Diesel Emission Reductions:** Metro supports continued efforts to reduce reliance on diesel fuel, particularly for garbage and recycling collection vehicles, construction

vehicles, or public transit vehicles that travel disproportionately in communities of color.

- **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.
- **Human Resources, Agency Operations:** Metro tracks and may weigh in on federal policy and regulatory changes that impact employees, worker pay, work place environment, and other agency operations. Metro supports policies that advance paid family leave, living wage jobs (including a \$15/hour federal minimum wage), paid sick leave, and programs that support equitable hiring, training, and compensation practices.

FEDERAL AND STATE LEGISLATIVE AGENDAS

Date: 12/21/21
Department: GAPD
Meeting Date: 1/14/22

Presenters: Tyler Frisbee, Deputy
Director and Anneliese Koehler, State and
Regional Affairs Advisor

Prepared by: Tyler Frisbee, Deputy
Director, and Anneliese Koehler, State and
Regional Affairs Advisor

Length: 30 minutes

ISSUE STATEMENT

This Council meeting is for Council to adopt the 2022 Federal Legislative Agenda and the 2022 State Legislative Agenda and 2022 State Legislative Principles. Proposed legislative priorities and principles will be discussed.

ACTION REQUESTED

The Council may adopt its federal and state legislative agendas for 2022.

IDENTIFIED POLICY OUTCOMES

Support Metro's policy goals through engagement with Congress, federal agencies, and the State Legislature.

POLICY QUESTION(S)

- Does the Council wish to approve previous policy direction, updated in Council discussion in October and December, under which staff is currently operating with respect to federal issues that are likely to surface in 2022?
- Does Council wish to approve 2022 state legislative policy priorities and principles, updated in Council discussions in October and December?

POLICY OPTIONS FOR COUNCIL TO CONSIDER

See attachments for Federal Affairs Legislative Agenda, State Legislative Principles, and State Legislative Priorities. These are final drafts that reflect Council's discussion in October and December and are here for final adoption.

STAFF RECOMMENDATIONS

See attached Federal Affairs Legislative Agenda, State Legislative Principles, and State Legislative Priorities.

STRATEGIC CONTEXT & FRAMING COUNCIL DISCUSSION

This fall, for the first time, the Metro Government Affairs and Policy Development group brought all three of our government legislative agendas to Council in order to give Council an opportunity to see the full spectrum of our government to government work. Today's adoption includes our federal and state legislative priorities; the Tribal Affairs agenda will be before Council for final approval in February.

Over the course of the fall, we met with Metro Departmental leadership to discuss our federal and state legislative agendas and our tribal affairs agenda. In addition, Metro Council held two work sessions, one in October and one in December to discuss the initial drafts of these agendas. We have incorporated all of this feedback into our presentation to you today and are here seeking final adoption of the federal and state legislative agendas for 2022.

We will continue to work with our regional governmental partners and community partners to discuss their priorities for 2022 and look for opportunities for partnership and collaboration.

Federal Affairs

Council approved Metro's first comprehensive federal agenda in February of 2021. In general, staff will intend to bring an updated federal agenda to Council every two years, in order to align with the Congressional calendar. However, given the interest in aligning all of our legislative agendas and the flurry of activity in DC, staff are bringing this updated agenda to Council.

With the passage of the American Rescue Act and the Bipartisan Infrastructure Bill and possible passage of the Build Back Better bill, many of Council's urgent priorities due to the economic impacts of the pandemic have been addressed. The Zoo and the P5 Performing Arts Venues have cumulatively received \$18 million from the Shuttered Venue Grants program and the Metropolitan Planning Organization has also received increased funds to address emergency operations shortfalls. Future opportunities to pursue federal funding due to the Bipartisan Infrastructure Bill and possibly the Build Back Better bill may include increased capital funding for transit projects, safety projects, and trail projects, and additional workforce funding programs and conservation efforts to advance climate goals. The updated document reflects the accomplishments Council has already achieved and the new landscape due to changing legislative opportunities, as well as feedback received from Council during the October worksession.

State Legislative Affairs

The 2022 Legislative session is a short session lasting roughly a month. Unlike long sessions, short sessions focus on small, necessary budgetary tweaks and passing technical fixes and a few pieces of policy legislation. It is uncommon for large, controversial pieces of legislation or significant budget changes to occur. Many parties approach the short session with only one or two minor bills, and the session is set up to be limiting: legislators are only allowed two bills.

Similar to the 2021 Legislative Session, we anticipate that COVID-19 response – both public health and economic recovery -- to be top line priorities. While the situation remains fluid, we anticipate that much of the short session will be virtual.

In addition, we anticipate that it will be a particularly political and partisan session. The combination of redistricting, an open seat for Governor, an open Congressional seat, and a new Congressional seat creates a heightened political environment over the next year, including short session. Noncontroversial bills will become instantly controversial because of their sponsors, there will be highly partisan parliamentary maneuvering in committee and on the floor, and the rumor mill will be vigorous.

While it will be a unique short session, normal preparation are already under way. Bill concepts are being discussed and circulated and people are meeting to advance policy priorities. Similar to previous short sessions, staff expects to propose a modest legislative agenda that reflects well-established Council policy and/or legislative priorities that have previously been included in the Council's agenda.

BACKGROUND

Council has previously adopted the Federal Affairs Legislative Agenda and Principles in February 2021. This updated agenda is rooted in the principles Council supported at that time and features slightly updated priorities given the new legislative landscape.

Council updates its State Legislative Agendas annually and reviews and as needed, updates its State Legislative Principles.

ATTACHMENTS [Identify and submit any attachments related to this legislation or presentation]

- Federal Legislative Affairs Agenda
- State Legislative Affairs Principles
- State Legislative Priorities

[For work session:]

- Is legislation required for Council action? X Yes No
- If yes, is draft legislation attached? X Yes ☐ No
- What other materials are you presenting today? [INSERT]

Agenda Item No. 4.3

Resolution No. 21-5238, For the Purpose of Authorizing the Chief Operating Officer to Execute Supportive Housing Services Intergovernmental Agreements with Multnomah, Clackamas, and Washington Counties to Implement the Metro Supportive Housing Services Program

Resolutions

Metro Council Meeting
Thursday, January 13, 2021

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE	)	RESOLUTION NO. 22-5238
CHIEF OPERATING OFFICER TO EXECUTE	)	
SUPPORTIVE HOUSING SERVICES	)	Introduced by Chief Operating Officer
INTERGOVERNMENTAL AGREEMENTS WITH	)	Marissa Madrigal with the Concurrence of
MULTNOMAH, CLACKAMAS, AND	)	Metro Council President Lynn Peterson
WASHINGTON COUNTIES TO IMPLEMENT	)	
THE METRO SUPPORTIVE HOUSING	)	
SERVICES PROGRAM	)	

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

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

WHEREAS, the Supportive Housing Services Measure established a ten-year program under which Metro would allocate and oversee Supportive Housing Services funds to local government partners for the purpose of expanding, coordinating, and providing services to address homelessness within the Metro region; and

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

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

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

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

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

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

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

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

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

BE IT RESOLVED that:

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

ADOPTED by the Metro Council this ____ day of January 2022.

Lynn Peterson, Council President

Approved as to Form:

Carrie MacLaren, Metro Attorney

**SUPPORTIVE HOUSING SERVICES
INTERGOVERNMENTAL AGREEMENT**

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

RECITALS

- A. On February 25, 2020, the Metro Council adopted Ordinance No. 20-1442, which imposed business and personal income taxes to fund a supportive housing services program based on its finding that areas within Metro's jurisdictional boundary (generally, the urbanized areas of Multnomah, Washington, and Clackamas counties) face a severe housing affordability and homelessness crisis that endangers the health and safety of thousands of Metro's unhoused neighbors;
- B. Also at the Metro Council meeting on February 25, 2020, the Metro Council adopted Resolution 20-5083, which referred the business and personal income taxes in Ordinance No. 20-1442 to voters within the Metro jurisdictional boundary for approval. The Multnomah County Elections Division designated Ordinance No. 20-1442 as Ballot Measure 26-210, and it was placed on the May 19, 2020, primary election ballot;
- C. On May 19, 2020, the Metro area voters approved the Measure, thereby approving the business and personal income taxes in Ordinance No. 20-1442;
- D. The ballot title to the Measure "direct[s] regional funding to local services agencies, require[s] community engagement to develop localized implementation plans[, and] ... [a]llocate[s] funds to counties by estimated revenue collected [from the Income Taxes] within each county ...";
- E. On December 17, 2020, Metro codified the Income Taxes in new Metro Code Chapters 7.05, 7.06, and 7.07, the programmatic elements of the Measure in Metro Code Chapter 11.01, and the Regional Oversight Committee elements in the new Metro Code Section 2.19.280; provided, however, that nothing herein will be construed as an admission that the Counties are subject to Metro Code;
- F. The Measure at Section 6 provides that each County in the Region will work with Services Providers and community partners to develop and implement programs that respond to the unique needs in their communities, as outlined in their Local Implementation Plan, and that Counties will invest SHS Revenue to achieve program goals and demonstrate outcomes (also as defined by its Local Implementation Plan), and to achieve goals and metrics for the Region once they are established by the TCPB;
- G. On April 29, 2021, the Metro Council approved Partner's Local Implementation Plan, which was enacted in accordance with the requirements of the Measure;

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

NOW, THEREFORE, the Parties agree as follows:

AGREEMENT

1. DEFINITIONS.

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

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

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

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

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

- 2.2. WIND-DOWN. The Parties expressly acknowledge and agree that even after a termination or expiration of the Term of the Agreement, Metro may collect Income Taxes and allocate Program Funds to Partner. As a result, the Parties agree to the following wind-down process following termination or expiration of the Term of the Agreement:

2.2.1. PROCESS. The Parties will collaboratively develop a plan for an orderly wind-down of the SHS program with the goal of mitigating the impact that Agreement termination could have on the individuals served by the SHS program and on the Services Providers reliant on Program Funds. Each Party shall bear its respective costs associated with wind-down planning and each will work cooperatively with the other Party in the coordination of efforts. The planning will also identify and address any ongoing program reserve needs (such as for contractual, project-based rent assistance requirements), return of unobligated funds, personnel, capital equipment, workload and any other issues related to winding-down the SHS program.

2.2.2. REASONABLE EFFORTS TO AVOID PROGRAM DISRUPTION. If the Agreement terminates, regardless of the reason, the Parties will make reasonable efforts to prevent undue harm to the Regional homeless services systems, structures, and to those receiving SHS at the time of the termination. The Parties will make reasonable efforts to ensure that such Partner obligations are met in the event the Agreement is terminated.

- 2.3. SUSPENSION. In the event Metro receives notice of an actual or threatened lawsuit challenging the validity of the Income Taxes, the Parties will work in good faith to minimize the impacts of that lawsuit on current SHS programs. In the event a court of competent jurisdiction issues a judgment that the Income Taxes are invalid, Metro may suspend disbursements of Program Funds to the minimum amount necessary to comply with the applicable court order and, to the maximum extent practicable, avoid SHS program disruption as set forth in **Section 2.2.2**.

3. INCOME TAX COLLECTIONS, ALLOCATIONS, ADMINISTRATION.

- 3.1. LEVY, COLLECT INCOME TAXES. Except as otherwise provided in **Section 2.2**, for so long as there are uncollected Income Taxes, Metro will collect, or contract with a third-

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

3.2. PROGRAM FUNDS DISBURSEMENTS. After the Effective Date Metro will disburse Program Funds to Partner on a monthly basis. Partner recognizes that Metro cannot guarantee any specific disbursement amount given the uncertainties regarding the amount of revenue that Metro will ultimately collect in any given year from the Income Taxes. Unless adjusted according to **Section 3.3** or **Section 3.5**, Metro will allocate Program Funds to the Counties as follows: 21 1/3% to Clackamas County, 45 1/3% to Multnomah County, and 33 1/3% to Washington County.

3.3. PROGRAM FUNDS ALLOCATIONS ADJUSTMENT. After FY 2022-23, the Counties and Metro will work cooperatively to establish a process for a review of the allocation percentages in **Section 3.2**.

3.4. ADMINISTRATION.

3.4.1. ADMINISTRATIVE EXPENSES. After Metro's Income Tax collection expenses are paid, Metro may retain up to 5% of the remaining funds to pay the expenses to disburse the funds and administer and oversee the program. This includes the expenses to convene and support the ROC and TCPB; establish a regional homeless data collection and reporting program; support tri-county regional collaboration; and fund audit expenses. The Parties also agree that Metro cannot use Administrative Expenses to deliver SHS.

3.4.2. ADMINISTRATIVE COSTS. Partner may use Program Funds to pay for its Administrative Costs. Metro recommends, but does not require, that in a given Fiscal Year Administrative Costs should not exceed: for SHS, 5% of annual Program Funds allocated to Partner, consistent with guidelines for similar programs funded by the state of Oregon; and, for administering long-term rent assistance programs, 10% of annual Program Funds allocated by Partner for long-term rent assistance, consistent with guidelines for similar programs funded by the U.S. Department of Housing and Urban Development and the state of Oregon. Partner will support all amounts billed as Administrative Costs by actual costs. Administrative Costs include, but are not limited to:

3.4.2.1. Senior management personnel salaries and benefits (unless they are directly involved in SHS program operations);

3.4.2.2. Administrative staff travel costs;

3.4.2.3. General services such as human resources, accounting, budget development, procurement, marketing, agency audit, and agency insurance;

3.4.2.4. Partner-wide membership fees and dues specific to homeless systems and programs;

3.4.2.5. General Partner facilities costs (including those associated with executive positions), such as rent, depreciation expenses, and operation and maintenance (as part of Partner's direct or indirect cost allocation plan);

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

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

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

4. USE OF INCOME TAXES.

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

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

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

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

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

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

5. **SHS PLANNING, BUDGETING.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6. PERFORMANCE AND FINANCIAL GOVERNANCE.

6.1. RECORDKEEPING, CONTROLS. Each Party must:

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

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

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

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

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

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

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

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

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

6.3. OBLIGATIONS OF THE PARTIES.

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

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

6.4. PARTNER OBLIGATIONS.

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

6.5. METRO OBLIGATIONS.

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

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

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

7. REPORTING REQUIREMENTS.

7.1. PARTNER REPORTING REQUIREMENTS.

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

- 7.1.1.1. Partner's Annual Program Budget and spend-down plan for the given Fiscal Year;
- 7.1.1.2. A certification consistent with **Section 5.5.1** that Partner did not reduce funding commitments for SHS in the Fiscal Year;
- 7.1.1.3. Reporting on all required outcome and equity metrics for the Region for the Fiscal Year, regional measurable goals, and any applicable performance evaluation metrics;
- 7.1.1.4. A summary of SHS program investments over the Fiscal Year (if not identified in the Annual Program Budget);
- 7.1.1.5. An analysis of how SHS program investments have contributed to the values and goals of the SHS program;
- 7.1.1.6. Any strategies to adjust or augment SHS programming to improve performance and outcomes in future years; and
- 7.1.1.7. A list of all the Services Providers under contract with Partner that received Program Funds, and the amount of funds received by each contractor.

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

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

7.2. METRO REPORTING REQUIREMENTS.

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

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

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

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

8. SHS PROGRAM GROUPS.

8.1. EXECUTIVE COMMITTEE.

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

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

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

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

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

8.3. TRI-COUNTY PLANNING BODY.

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

8.4. METRO.

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

9. RISK-SHARING.

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

9.2. INDEMNIFICATION BY THE PARTIES.

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

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

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

10. DISPUTES, REMEDIES.

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

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

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

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

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

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

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

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

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

10.2. REMEDIES.

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

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

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

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

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

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

10.2.3.3. TERMINATION OF WITHHOLDING. Metro's right to withhold future Program Funds terminates upon the occurrence of one of the following:

- a. APPROPRIATE SPENDING. Partner either, as appropriate: (i) provides funding towards an eligible Partner SHS program, through non-Program Funds dollars, in an amount equal to Partner's Misuse; or (ii) spends Program Funds in a manner consistent with a CAP.
- b. COURT ORDER. A tribunal (i.e., a court of competent jurisdiction or an arbitrator) determines that Partner's use of Program Funds was permissible under this Agreement.

10.2.3.4. EXAMPLES OF MISUSE AND NON-MISUSE. The following are examples of expenditures that constitute Misuse under this subsection: using Program Funds to repair roads, hire corrections or parole officers, or to pay for public improvements unrelated to the provision of SHS. The following examples do not constitute Misuse: spending Program Funds on eligible SHS programs but differently than as described in the Plan or Annual Work Plan, provided the spending does not materially deviate from the approved Local Implementation Plan or Material Plan Amendment; spending less than provided for in an applicable Annual Program Budget because of insufficient Program Funds received from Metro; reserving Program Funds over multiple Fiscal Years to pay contractual, project-based rent assistance requirements; spending Program Funds on SHS programming but through other departments or agencies, such as on behavioral health services for people experiencing homelessness, and spending on juvenile homelessness; spending Program Funds on capacity building; and spending Program Funds on debt service for loans benefitting a SHS program.

10.2.3.5. CORRECTIVE ACTION PLAN-BASED WITHHOLDING. Upon completion of the dispute resolution process set forth in **Section 10**, if Partner fails to comply with a CAP, then Metro may temporarily withhold an amount equal to the under-expenditure until Partner corrects the under-expenditure by spending Program Funds in accordance with its CAP.

10.2.3.6. PROGRAM FUNDS RE-ALLOCATION FOR BREACH. Metro may re-allocate Program Funds withheld from one County (the "Repudiating County") and disburse those Program Funds to one or more other Counties to be used within the boundaries of the Repudiating County if a majority of the Counties' delegations to the Executive Committee find that the Repudiating County has anticipatorily repudiated the Agreement. If a majority of the Counties' delegations find that an anticipatory repudiation has occurred, then the following process applies:

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

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

11. GENERAL PROVISIONS.

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

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

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

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

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

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SUPPORTIVE HOUSING SERVICES INTERGOVERNMENTAL AGREEMENT
Signatures

Metro Regional Government

Approved as to form

Marissa Madrigal, Chief Operating Officer

Date: _____

Carrie MacLaren, Metro Attorney

Date: _____

Multnomah County

Approved as to form

Deborah Kafoury, Chair

Date: _____

Jenny Madkour, County Attorney

Date: _____

EXHIBIT 1
Ballot Measure 26-210

The People of Metro ordain as follows:

SUPPORTIVE HOUSING SERVICES OVERVIEW

SECTION 1. Title

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

SECTION 2. Finding of Metropolitan Concern

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

SECTION 3. Purpose

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

PROGRAM IMPLEMENTATION

SECTION 4. Services and Priorities

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

SECTION 5. Oversight Committee

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

- h. Represents a continuum of care organization.

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

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

SECTION 6. Local Implementation Plans

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

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

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

SECTION 7. Allocation of Revenue

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

SECTION 8. Equity and Community Engagement

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

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

SECTION 9. Prohibition on Displacement of Funds Currently Provided

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

TAX COLLECTION REQUIREMENTS

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

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

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

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

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

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

SECTION 12. Collection of Funds

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

SECTION 13. Use of Revenues

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

SECTION 14. Administrative Cost Recovery

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

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

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

SECTION 15. Use of Funds in Metro Jurisdictional Boundary Only

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

SECTION 16. Accountability of Funds; Audits

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

SECTION 17. Ownership of Taxpayer Information

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

SECTION 18. Confidentiality

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

SECTION 19. Examination of Books, Records or Persons

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

SECTION 20. Conformity to State Laws

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

SECTION 21. Tax as a Debt; Collection Authority

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

FURTHER IMPLEMENTATION

SECTION 22. Administrative Rules

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

SECTION 23. Tri-County Planning

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

DEFINITIONS

SECTION 24. Definitions

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

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

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

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

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

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

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

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

SECTION 25. Severability

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

EXHIBIT 2
Local Implementation Plan

EXHIBIT 3
Metro SHS Work Plan

EXHIBIT 4
Contact Information for Notices

If to Metro:

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

and:

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

With copies to:

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

If to Clackamas County:

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

and:

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

With copies to:

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

If to Multnomah County:

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

and:

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

With copies to:

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

If to Washington County:

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

and:

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

With copies to:

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

SUPPORTIVE HOUSING SERVICES INTERGOVERNMENTAL AGREEMENT

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

RECITALS

- A. On February 25, 2020, the Metro Council adopted Ordinance No. 20-1442, which imposed business and personal income taxes to fund a supportive housing services program based on its finding that areas within Metro's jurisdictional boundary (generally, the urbanized areas of Multnomah, Washington, and Clackamas counties) face a severe housing affordability and homelessness crisis that endangers the health and safety of thousands of Metro's unhoused neighbors;
- B. Also at the Metro Council meeting on February 25, 2020, the Metro Council adopted Resolution 20-5083, which referred the business and personal income taxes in Ordinance No. 20-1442 to voters within the Metro jurisdictional boundary for approval. The Multnomah County Elections Division designated Ordinance No. 20-1442 as Ballot Measure 26-210, and it was placed on the May 19, 2020, primary election ballot;
- C. On May 19, 2020, the Metro area voters approved the Measure, thereby approving the business and personal income taxes in Ordinance No. 20-1442;
- D. The ballot title to the Measure "direct[s] regional funding to local services agencies, require[s] community engagement to develop localized implementation plans[, and] ... [a]llocate[s] funds to counties by estimated revenue collected [from the Income Taxes] within each county ...";
- E. On December 17, 2020, Metro codified the Income Taxes in new Metro Code Chapters 7.05, 7.06, and 7.07, the programmatic elements of the Measure in Metro Code Chapter 11.01, and the Regional Oversight Committee elements in the new Metro Code Section 2.19.280; provided, however, that nothing herein will be construed as an admission that the Counties are subject to Metro Code;
- F. The Measure at Section 6 provides that each County in the Region will work with Services Providers and community partners to develop and implement programs that respond to the unique needs in their communities, as outlined in their Local Implementation Plan, and that Counties will invest SHS Revenue to achieve program goals and demonstrate outcomes (also as defined by its Local Implementation Plan), and to achieve goals and metrics for the Region once they are established by the TCPB;
- G. On June 17, 2021, the Metro Council approved Partner's Local Implementation Plan, which was enacted in accordance with the requirements of the Measure;

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

NOW, THEREFORE, the Parties agree as follows:

AGREEMENT

1. DEFINITIONS.

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

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

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

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

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

- 2.2. WIND-DOWN. The Parties expressly acknowledge and agree that even after a termination or expiration of the Term of the Agreement, Metro may collect Income Taxes and allocate Program Funds to Partner. As a result, the Parties agree to the following wind-down process following termination or expiration of the Term of the Agreement:

2.2.1. PROCESS. The Parties will collaboratively develop a plan for an orderly wind-down of the SHS program with the goal of mitigating the impact that Agreement termination could have on the individuals served by the SHS program and on the Services Providers reliant on Program Funds. Each Party shall bear its respective costs associated with wind-down planning and each will work cooperatively with the other Party in the coordination of efforts. The planning will also identify and address any ongoing program reserve needs (such as for contractual, project-based rent assistance requirements), return of unobligated funds, personnel, capital equipment, workload and any other issues related to winding-down the SHS program.

2.2.2. REASONABLE EFFORTS TO AVOID PROGRAM DISRUPTION. If the Agreement terminates, regardless of the reason, the Parties will make reasonable efforts to prevent undue harm to the Regional homeless services systems, structures, and to those receiving SHS at the time of the termination. The Parties will make reasonable efforts to ensure that such Partner obligations are met in the event the Agreement is terminated.

- 2.3. SUSPENSION. In the event Metro receives notice of an actual or threatened lawsuit challenging the validity of the Income Taxes, the Parties will work in good faith to minimize the impacts of that lawsuit on current SHS programs. In the event a court of competent jurisdiction issues a judgment that the Income Taxes are invalid, Metro may suspend disbursements of Program Funds to the minimum amount necessary to comply with the applicable court order and, to the maximum extent practicable, avoid SHS program disruption as set forth in **Section 2.2.2**.

3. INCOME TAX COLLECTIONS, ALLOCATIONS, ADMINISTRATION.

- 3.1. LEVY, COLLECT INCOME TAXES. Except as otherwise provided in **Section 2.2**, for so long as there are uncollected Income Taxes, Metro will collect, or contract with a third-

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

3.2. PROGRAM FUNDS DISBURSEMENTS. After the Effective Date Metro will disburse Program Funds to Partner on a monthly basis. Partner recognizes that Metro cannot guarantee any specific disbursement amount given the uncertainties regarding the amount of revenue that Metro will ultimately collect in any given year from the Income Taxes. Unless adjusted according to **Section 3.3** or **Section 3.5**, Metro will allocate Program Funds to the Counties as follows: 21 1/3% to Clackamas County, 45 1/3% to Multnomah County, and 33 1/3% to Washington County.

3.3. PROGRAM FUNDS ALLOCATIONS ADJUSTMENT. After FY 2022-23, the Counties and Metro will work cooperatively to establish a process for a review of the allocation percentages in **Section 3.2**.

3.4. ADMINISTRATION.

3.4.1. ADMINISTRATIVE EXPENSES. After Metro's Income Tax collection expenses are paid, Metro may retain up to 5% of the remaining funds to pay the expenses to disburse the funds and administer and oversee the program. This includes the expenses to convene and support the ROC and TCPB; establish a regional homeless data collection and reporting program; support tri-county regional collaboration; and fund audit expenses. The Parties also agree that Metro cannot use Administrative Expenses to deliver SHS.

3.4.2. ADMINISTRATIVE COSTS. Partner may use Program Funds to pay for its Administrative Costs. Metro recommends, but does not require, that in a given Fiscal Year Administrative Costs should not exceed: for SHS, 5% of annual Program Funds allocated to Partner, consistent with guidelines for similar programs funded by the state of Oregon; and, for administering long-term rent assistance programs, 10% of annual Program Funds allocated by Partner for long-term rent assistance, consistent with guidelines for similar programs funded by the U.S. Department of Housing and Urban Development and the state of Oregon. Partner will support all amounts billed as Administrative Costs by actual costs. Administrative Costs include, but are not limited to:

3.4.2.1. Senior management personnel salaries and benefits (unless they are directly involved in SHS program operations);

3.4.2.2. Administrative staff travel costs;

3.4.2.3. General services such as human resources, accounting, budget development, procurement, marketing, agency audit, and agency insurance;

3.4.2.4. Partner-wide membership fees and dues specific to homeless systems and programs;

3.4.2.5. General Partner facilities costs (including those associated with executive positions), such as rent, depreciation expenses, and operation and maintenance (as part of Partner's direct or indirect cost allocation plan);

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

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

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

4. USE OF INCOME TAXES.

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

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

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

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

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

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

5. SHS PLANNING, BUDGETING.

- 5.1. METRO SHS WORK PLAN. Metro will implement its SHS program in a manner that is consistent with the Metro SHS Work Plan. To avoid ambiguity, and except where a specific portion of the plan is clearly identified and referenced in the Agreement, Partner is not required to comply with any performances, rights, or obligations set forth in the Metro SHS Work Plan.
- 5.2. LOCAL IMPLEMENTATION PLAN. A Local Implementation Plan is required to describe the priorities and strategies that will shape Partner's use of Program Funds and how these uses align with the purposes provided for in the Measure at Section 3 and the Metro SHS Work Plan. Partner's approved Plan is attached as **Exhibit 2**. Partner agrees to use Program Funds as set forth in its Local Implementation Plan.
 - 5.2.1. MATERIAL PLAN AMENDMENT APPROVAL PROCESS. The approval process for Material Plan Amendments is as follows:
 - 5.2.1.1. Partner develops the Material Plan Amendment using a locally convened community engagement process, as described in the Measure at Section 6, and submits the Material Plan Amendment to its advisory body (i.e., its board of county commissioners) for review and approval;
 - 5.2.1.2. Partner submits the County-approved Material Plan Amendment to the ROC for its review and recommendation;
 - 5.2.1.3. The ROC either recommends to Metro approval or denial of the Material Plan Amendment; and
 - 5.2.1.4. Metro Council then approves or denies the Material Plan Amendment. If denied, Partner must submit a new Material Plan Amendment or initiate the dispute resolution process in **Section 10.1**.
 - 5.2.2. PLAN AMENDMENTS. If Partner seeks a Material Plan Amendment, it must follow the approval process set forth in **Section 5.2.1**. Partner may request that Metro waive the process to implement a temporary Material Plan Amendment upon a Metro finding that a delay would seriously impact Partner's ability to implement the current Plan or adequately address an ongoing service need. A waiver of the

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6. **PERFORMANCE AND FINANCIAL GOVERNANCE**.

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

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

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

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

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

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

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

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

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

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

6.3. OBLIGATIONS OF THE PARTIES.

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

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

6.4. PARTNER OBLIGATIONS.

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

6.5. METRO OBLIGATIONS.

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

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

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

7. REPORTING REQUIREMENTS.

7.1. PARTNER REPORTING REQUIREMENTS.

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

- 7.1.1.1. Partner's Annual Program Budget and spend-down plan for the given Fiscal Year;
- 7.1.1.2. A certification consistent with **Section 5.5.1** that Partner did not reduce funding commitments for SHS in the Fiscal Year;
- 7.1.1.3. Reporting on all required outcome and equity metrics for the Region for the Fiscal Year, regional measurable goals, and any applicable performance evaluation metrics;
- 7.1.1.4. A summary of SHS program investments over the Fiscal Year (if not identified in the Annual Program Budget);
- 7.1.1.5. An analysis of how SHS program investments have contributed to the values and goals of the SHS program;
- 7.1.1.6. Any strategies to adjust or augment SHS programming to improve performance and outcomes in future years; and
- 7.1.1.7. A list of all the Services Providers under contract with Partner that received Program Funds, and the amount of funds received by each contractor.

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

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

7.2. METRO REPORTING REQUIREMENTS.

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

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

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

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

8. SHS PROGRAM GROUPS.

8.1. EXECUTIVE COMMITTEE.

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

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

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

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

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

8.3. TRI-COUNTY PLANNING BODY.

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

8.4. METRO.

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

9. RISK-SHARING.

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

9.2. INDEMNIFICATION BY THE PARTIES.

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

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

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

10. DISPUTES, REMEDIES.

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

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

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

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

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

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

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

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

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

10.2. REMEDIES.

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

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

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

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

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

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

10.2.3.3. TERMINATION OF WITHHOLDING. Metro's right to withhold future Program Funds terminates upon the occurrence of one of the following:

- a. APPROPRIATE SPENDING. Partner either, as appropriate: (i) provides funding towards an eligible Partner SHS program, through non-Program Funds dollars, in an amount equal to Partner's Misuse; or (ii) spends Program Funds in a manner consistent with a CAP.
- b. COURT ORDER. A tribunal (i.e., a court of competent jurisdiction or an arbitrator) determines that Partner's use of Program Funds was permissible under this Agreement.

10.2.3.4. EXAMPLES OF MISUSE AND NON-MISUSE. The following are examples of expenditures that constitute Misuse under this subsection: using Program Funds to repair roads, hire corrections or parole officers, or to pay for public improvements unrelated to the provision of SHS. The following examples do not constitute Misuse: spending Program Funds on eligible SHS programs but differently than as described in the Plan or Annual Work Plan, provided the spending does not materially deviate from the approved Local Implementation Plan or Material Plan Amendment; spending less than provided for in an applicable Annual Program Budget because of insufficient Program Funds received from Metro; reserving Program Funds over multiple Fiscal Years to pay contractual, project-based rent assistance requirements; spending Program Funds on SHS programming but through other departments or agencies, such as on behavioral health services for people experiencing homelessness, and spending on juvenile homelessness; spending Program Funds on capacity building; and spending Program Funds on debt service for loans benefitting a SHS program.

10.2.3.5. CORRECTIVE ACTION PLAN-BASED WITHHOLDING. Upon completion of the dispute resolution process set forth in **Section 10**, if Partner fails to comply with a CAP, then Metro may temporarily withhold an amount equal to the under-expenditure until Partner corrects the under-expenditure by spending Program Funds in accordance with its CAP.

10.2.3.6. PROGRAM FUNDS RE-ALLOCATION FOR BREACH. Metro may re-allocate Program Funds withheld from one County (the "Repudiating County") and disburse those Program Funds to one or more other Counties to be used within the boundaries of the Repudiating County if a majority of the Counties' delegations to the Executive Committee find that the Repudiating County has anticipatorily repudiated the Agreement. If a majority of the Counties' delegations find that an anticipatory repudiation has occurred, then the following process applies:

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

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

11. GENERAL PROVISIONS.

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

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

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

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

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

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SUPPORTIVE HOUSING SERVICES INTERGOVERNMENTAL AGREEMENT
Signatures

Metro Regional Government

Approved as to form

Marissa Madrigal, Chief Operating Officer
Date: _____

Carrie MacLaren, Metro Attorney
Date: _____

Clackamas County

Approved as to form

Tootie Smith, Chair
Date: _____

Stephen Madkour, County Attorney
Date: _____

EXHIBIT 1
Ballot Measure 26-210

The People of Metro ordain as follows:

SUPPORTIVE HOUSING SERVICES OVERVIEW

SECTION 1. Title

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

SECTION 2. Finding of Metropolitan Concern

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

SECTION 3. Purpose

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

PROGRAM IMPLEMENTATION

SECTION 4. Services and Priorities

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

SECTION 5. Oversight Committee

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

- h. Represents a continuum of care organization.

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

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

SECTION 6. Local Implementation Plans

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

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

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

SECTION 7. Allocation of Revenue

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

SECTION 8. Equity and Community Engagement

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

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

SECTION 9. Prohibition on Displacement of Funds Currently Provided

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

TAX COLLECTION REQUIREMENTS

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

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

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

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

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

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

SECTION 12. Collection of Funds

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

SECTION 13. Use of Revenues

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

SECTION 14. Administrative Cost Recovery

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

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

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

SECTION 15. Use of Funds in Metro Jurisdictional Boundary Only

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

SECTION 16. Accountability of Funds; Audits

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

SECTION 17. Ownership of Taxpayer Information

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

SECTION 18. Confidentiality

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

SECTION 19. Examination of Books, Records or Persons

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

SECTION 20. Conformity to State Laws

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

SECTION 21. Tax as a Debt; Collection Authority

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

FURTHER IMPLEMENTATION

SECTION 22. Administrative Rules

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

SECTION 23. Tri-County Planning

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

DEFINITIONS

SECTION 24. Definitions

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

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

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

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

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

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

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

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

SECTION 25. Severability

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

EXHIBIT 2
Local Implementation Plan

EXHIBIT 3
Metro SHS Work Plan

EXHIBIT 4
Contact Information for Notices

If to Metro:

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

and:

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

With copies to:

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

If to Clackamas County:

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

and:

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

With copies to:

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

If to Multnomah County:

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

and:

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

With copies to:

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

If to Washington County:

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

and:

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

With copies to:

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

**SUPPORTIVE HOUSING SERVICES
INTERGOVERNMENTAL AGREEMENT**

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

RECITALS

- A. On February 25, 2020, the Metro Council adopted Ordinance No. 20-1442, which imposed business and personal income taxes to fund a supportive housing services program based on its finding that areas within Metro's jurisdictional boundary (generally, the urbanized areas of Multnomah, Washington, and Clackamas counties) face a severe housing affordability and homelessness crisis that endangers the health and safety of thousands of Metro's unhoused neighbors;
- B. Also at the Metro Council meeting on February 25, 2020, the Metro Council adopted Resolution 20-5083, which referred the business and personal income taxes in Ordinance No. 20-1442 to voters within the Metro jurisdictional boundary for approval. The Multnomah County Elections Division designated Ordinance No. 20-1442 as Ballot Measure 26-210, and it was placed on the May 19, 2020, primary election ballot;
- C. On May 19, 2020, the Metro area voters approved the Measure, thereby approving the business and personal income taxes in Ordinance No. 20-1442;
- D. The ballot title to the Measure "direct[s] regional funding to local services agencies, require[s] community engagement to develop localized implementation plans[, and] ... [a]llocate[s] funds to counties by estimated revenue collected [from the Income Taxes] within each county ...";
- E. On December 17, 2020, Metro codified the Income Taxes in new Metro Code Chapters 7.05, 7.06, and 7.07, the programmatic elements of the Measure in Metro Code Chapter 11.01, and the Regional Oversight Committee elements in the new Metro Code Section 2.19.280; provided, however, that nothing herein will be construed as an admission that the Counties are subject to Metro Code;
- F. The Measure at Section 6 provides that each County in the Region will work with Services Providers and community partners to develop and implement programs that respond to the unique needs in their communities, as outlined in their Local Implementation Plan, and that Counties will invest SHS Revenue to achieve program goals and demonstrate outcomes (also as defined by its Local Implementation Plan), and to achieve goals and metrics for the Region once they are established by the TCPB;
- G. On May 27, 2021, the Metro Council approved Partner's Local Implementation Plan, which was enacted in accordance with the requirements of the Measure;

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

NOW, THEREFORE, the Parties agree as follows:

AGREEMENT

1. DEFINITIONS.

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

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

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

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

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

- 2.2. WIND-DOWN. The Parties expressly acknowledge and agree that even after a termination or expiration of the Term of the Agreement, Metro may collect Income Taxes and allocate Program Funds to Partner. As a result, the Parties agree to the following wind-down process following termination or expiration of the Term of the Agreement:

2.2.1. PROCESS. The Parties will collaboratively develop a plan for an orderly wind-down of the SHS program with the goal of mitigating the impact that Agreement termination could have on the individuals served by the SHS program and on the Services Providers reliant on Program Funds. Each Party shall bear its respective costs associated with wind-down planning and each will work cooperatively with the other Party in the coordination of efforts. The planning will also identify and address any ongoing program reserve needs (such as for contractual, project-based rent assistance requirements), return of unobligated funds, personnel, capital equipment, workload and any other issues related to winding-down the SHS program.

2.2.2. REASONABLE EFFORTS TO AVOID PROGRAM DISRUPTION. If the Agreement terminates, regardless of the reason, the Parties will make reasonable efforts to prevent undue harm to the Regional homeless services systems, structures, and to those receiving SHS at the time of the termination. The Parties will make reasonable efforts to ensure that such Partner obligations are met in the event the Agreement is terminated.

- 2.3. SUSPENSION. In the event Metro receives notice of an actual or threatened lawsuit challenging the validity of the Income Taxes, the Parties will work in good faith to minimize the impacts of that lawsuit on current SHS programs. In the event a court of competent jurisdiction issues a judgment that the Income Taxes are invalid, Metro may suspend disbursements of Program Funds to the minimum amount necessary to comply with the applicable court order and, to the maximum extent practicable, avoid SHS program disruption as set forth in **Section 2.2.2**.

3. INCOME TAX COLLECTIONS, ALLOCATIONS, ADMINISTRATION.

- 3.1. LEVY, COLLECT INCOME TAXES. Except as otherwise provided in **Section 2.2**, for so long as there are uncollected Income Taxes, Metro will collect, or contract with a third-

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

3.2. PROGRAM FUNDS DISBURSEMENTS. After the Effective Date Metro will disburse Program Funds to Partner on a monthly basis. Partner recognizes that Metro cannot guarantee any specific disbursement amount given the uncertainties regarding the amount of revenue that Metro will ultimately collect in any given year from the Income Taxes. Unless adjusted according to **Section 3.3** or **Section 3.5**, Metro will allocate Program Funds to the Counties as follows: 21 1/3% to Clackamas County, 45 1/3% to Multnomah County, and 33 1/3% to Washington County.

3.3. PROGRAM FUNDS ALLOCATIONS ADJUSTMENT. After FY 2022-23, the Counties and Metro will work cooperatively to establish a process for a review of the allocation percentages in **Section 3.2**.

3.4. ADMINISTRATION.

3.4.1. ADMINISTRATIVE EXPENSES. After Metro's Income Tax collection expenses are paid, Metro may retain up to 5% of the remaining funds to pay the expenses to disburse the funds and administer and oversee the program. This includes the expenses to convene and support the ROC and TCPB; establish a regional homeless data collection and reporting program; support tri-county regional collaboration; and fund audit expenses. The Parties also agree that Metro cannot use Administrative Expenses to deliver SHS.

3.4.2. ADMINISTRATIVE COSTS. Partner may use Program Funds to pay for its Administrative Costs. Metro recommends, but does not require, that in a given Fiscal Year Administrative Costs should not exceed: for SHS, 5% of annual Program Funds allocated to Partner, consistent with guidelines for similar programs funded by the state of Oregon; and, for administering long-term rent assistance programs, 10% of annual Program Funds allocated by Partner for long-term rent assistance, consistent with guidelines for similar programs funded by the U.S. Department of Housing and Urban Development and the state of Oregon. Partner will support all amounts billed as Administrative Costs by actual costs. Administrative Costs include, but are not limited to:

3.4.2.1. Senior management personnel salaries and benefits (unless they are directly involved in SHS program operations);

3.4.2.2. Administrative staff travel costs;

3.4.2.3. General services such as human resources, accounting, budget development, procurement, marketing, agency audit, and agency insurance;

3.4.2.4. Partner-wide membership fees and dues specific to homeless systems and programs;

3.4.2.5. General Partner facilities costs (including those associated with executive positions), such as rent, depreciation expenses, and operation and maintenance (as part of Partner's direct or indirect cost allocation plan);

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

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

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

4. USE OF INCOME TAXES.

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

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

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

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

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

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

5. SHS PLANNING, BUDGETING.

- 5.1. METRO SHS WORK PLAN. Metro will implement its SHS program in a manner that is consistent with the Metro SHS Work Plan. To avoid ambiguity, and except where a specific portion of the plan is clearly identified and referenced in the Agreement, Partner is not required to comply with any performances, rights, or obligations set forth in the Metro SHS Work Plan.
- 5.2. LOCAL IMPLEMENTATION PLAN. A Local Implementation Plan is required to describe the priorities and strategies that will shape Partner's use of Program Funds and how these uses align with the purposes provided for in the Measure at Section 3 and the Metro SHS Work Plan. Partner's approved Plan is attached as **Exhibit 2**. Partner agrees to use Program Funds as set forth in its Local Implementation Plan.
 - 5.2.1. MATERIAL PLAN AMENDMENT APPROVAL PROCESS. The approval process for Material Plan Amendments is as follows:
 - 5.2.1.1. Partner develops the Material Plan Amendment using a locally convened community engagement process, as described in the Measure at Section 6, and submits the Material Plan Amendment to its advisory body (i.e., its board of county commissioners) for review and approval;
 - 5.2.1.2. Partner submits the County-approved Material Plan Amendment to the ROC for its review and recommendation;
 - 5.2.1.3. The ROC either recommends to Metro approval or denial of the Material Plan Amendment; and
 - 5.2.1.4. Metro Council then approves or denies the Material Plan Amendment. If denied, Partner must submit a new Material Plan Amendment or initiate the dispute resolution process in **Section 10.1**.
 - 5.2.2. PLAN AMENDMENTS. If Partner seeks a Material Plan Amendment, it must follow the approval process set forth in **Section 5.2.1**. Partner may request that Metro waive the process to implement a temporary Material Plan Amendment upon a Metro finding that a delay would seriously impact Partner's ability to implement the current Plan or adequately address an ongoing service need. A waiver of the

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6. **PERFORMANCE AND FINANCIAL GOVERNANCE**.

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

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

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

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

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

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

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

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

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

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

6.3. OBLIGATIONS OF THE PARTIES.

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

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

6.4. PARTNER OBLIGATIONS.

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

6.5. METRO OBLIGATIONS.

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

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

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

7. REPORTING REQUIREMENTS.

7.1. PARTNER REPORTING REQUIREMENTS.

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

- 7.1.1.1. Partner's Annual Program Budget and spend-down plan for the given Fiscal Year;
- 7.1.1.2. A certification consistent with **Section 5.5.1** that Partner did not reduce funding commitments for SHS in the Fiscal Year;
- 7.1.1.3. Reporting on all required outcome and equity metrics for the Region for the Fiscal Year, regional measurable goals, and any applicable performance evaluation metrics;
- 7.1.1.4. A summary of SHS program investments over the Fiscal Year (if not identified in the Annual Program Budget);
- 7.1.1.5. An analysis of how SHS program investments have contributed to the values and goals of the SHS program;
- 7.1.1.6. Any strategies to adjust or augment SHS programming to improve performance and outcomes in future years; and
- 7.1.1.7. A list of all the Services Providers under contract with Partner that received Program Funds, and the amount of funds received by each contractor.

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

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

7.2. METRO REPORTING REQUIREMENTS.

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

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

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

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

8. SHS PROGRAM GROUPS.

8.1. EXECUTIVE COMMITTEE.

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

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

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

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

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

8.3. TRI-COUNTY PLANNING BODY.

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

8.4. METRO.

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

9. RISK-SHARING.

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

9.2. INDEMNIFICATION BY THE PARTIES.

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

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

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

10. DISPUTES, REMEDIES.

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

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

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

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

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

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

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

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

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

10.2. REMEDIES.

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

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

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

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

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

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

10.2.3.3. TERMINATION OF WITHHOLDING. Metro's right to withhold future Program Funds terminates upon the occurrence of one of the following:

- a. APPROPRIATE SPENDING. Partner either, as appropriate: (i) provides funding towards an eligible Partner SHS program, through non-Program Funds dollars, in an amount equal to Partner's Misuse; or (ii) spends Program Funds in a manner consistent with a CAP.
- b. COURT ORDER. A tribunal (i.e., a court of competent jurisdiction or an arbitrator) determines that Partner's use of Program Funds was permissible under this Agreement.

10.2.3.4. EXAMPLES OF MISUSE AND NON-MISUSE. The following are examples of expenditures that constitute Misuse under this subsection: using Program Funds to repair roads, hire corrections or parole officers, or to pay for public improvements unrelated to the provision of SHS. The following examples do not constitute Misuse: spending Program Funds on eligible SHS programs but differently than as described in the Plan or Annual Work Plan, provided the spending does not materially deviate from the approved Local Implementation Plan or Material Plan Amendment; spending less than provided for in an applicable Annual Program Budget because of insufficient Program Funds received from Metro; reserving Program Funds over multiple Fiscal Years to pay contractual, project-based rent assistance requirements; spending Program Funds on SHS programming but through other departments or agencies, such as on behavioral health services for people experiencing homelessness, and spending on juvenile homelessness; spending Program Funds on capacity building; and spending Program Funds on debt service for loans benefitting a SHS program.

10.2.3.5. CORRECTIVE ACTION PLAN-BASED WITHHOLDING. Upon completion of the dispute resolution process set forth in **Section 10**, if Partner fails to comply with a CAP, then Metro may temporarily withhold an amount equal to the under-expenditure until Partner corrects the under-expenditure by spending Program Funds in accordance with its CAP.

10.2.3.6. PROGRAM FUNDS RE-ALLOCATION FOR BREACH. Metro may re-allocate Program Funds withheld from one County (the "Repudiating County") and disburse those Program Funds to one or more other Counties to be used within the boundaries of the Repudiating County if a majority of the Counties' delegations to the Executive Committee find that the Repudiating County has anticipatorily repudiated the Agreement. If a majority of the Counties' delegations find that an anticipatory repudiation has occurred, then the following process applies:

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

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

11. GENERAL PROVISIONS.

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

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

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

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

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

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SUPPORTIVE HOUSING SERVICES INTERGOVERNMENTAL AGREEMENT
Signatures

Metro Regional Government

Approved as to form

Marissa Madrigal, Chief Operating Officer

Date: _____

Carrie MacLaren, Metro Attorney

Date: _____

Washington County

Approved as to form

Kathryn Harrington, Chair

Date: _____

Tom Carr, County Attorney

Date: _____

EXHIBIT 1
Ballot Measure 26-210

The People of Metro ordain as follows:

SUPPORTIVE HOUSING SERVICES OVERVIEW

SECTION 1. Title

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

SECTION 2. Finding of Metropolitan Concern

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

SECTION 3. Purpose

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

PROGRAM IMPLEMENTATION

SECTION 4. Services and Priorities

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

SECTION 5. Oversight Committee

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

- h. Represents a continuum of care organization.

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

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

SECTION 6. Local Implementation Plans

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

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

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

SECTION 7. Allocation of Revenue

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

SECTION 8. Equity and Community Engagement

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

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

SECTION 9. Prohibition on Displacement of Funds Currently Provided

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

TAX COLLECTION REQUIREMENTS

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

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

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

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

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

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

SECTION 12. Collection of Funds

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

SECTION 13. Use of Revenues

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

SECTION 14. Administrative Cost Recovery

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

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

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

SECTION 15. Use of Funds in Metro Jurisdictional Boundary Only

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

SECTION 16. Accountability of Funds; Audits

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

SECTION 17. Ownership of Taxpayer Information

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

SECTION 18. Confidentiality

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

SECTION 19. Examination of Books, Records or Persons

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

SECTION 20. Conformity to State Laws

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

SECTION 21. Tax as a Debt; Collection Authority

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

FURTHER IMPLEMENTATION

SECTION 22. Administrative Rules

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

SECTION 23. Tri-County Planning

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

DEFINITIONS

SECTION 24. Definitions

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

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

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

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

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

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

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

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

SECTION 25. Severability

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

EXHIBIT 2
Local Implementation Plan

EXHIBIT 3
Metro SHS Work Plan

EXHIBIT 4
Contact Information for Notices

If to Metro:

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

and:

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

With copies to:

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

If to Clackamas County:

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

and:

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

With copies to:

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

If to Multnomah County:

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

and:

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

With copies to:

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

If to Washington County:

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

and:

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

With copies to:

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

IN CONSIDERATION OF:

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

Date: December 29, 2021

Department: Planning, Development & Research

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

Meeting Date: January 13, 2022

Length: 30 minutes

Prepared by: Patricia Rojas,
patricia.rojas@oregonmetro.gov

ISSUE STATEMENT

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

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

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

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

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

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

ACTION REQUESTED

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

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

IDENTIFIED POLICY OUTCOMES

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

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

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

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

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

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

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

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

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

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

STAFF RECOMMENDATIONS

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

STRATEGIC CONTEXT & FRAMING COUNCIL DISCUSSION

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

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

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

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

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

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

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

BACKGROUND

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

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

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

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

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

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

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

ATTACHMENTS

- Resolution 22-5238

Agenda Item No. 5.1

Ordinance No. 22-1473, For the Purpose of Annexing to the Metro District Boundary
approximately 2.19 Acres Located at 17687 SW Brookman Road in Sherwood

Ordinances (First Reading)

Metro Council Meeting
Thursday, January 13, 2021

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ANNEXING TO THE) ORDINANCE NO. 22-1473
METRO DISTRICT BOUNDARY)
APPROXIMATELY 2.19 ACRES LOCATED AT) Introduced by Chief Operating Officer
17687 SW BROOKMAN ROAD IN SHERWOOD) Marissa Madrigal with the Concurrence of
) Council President Lynn Peterson

WHEREAS, Olivia Beach LLC has submitted a complete application for annexation of 2.19 acres located at 17687 SW Brookman Road in Sherwood ("the territory") to the Metro District; and

WHEREAS, the Metro Council added the Sherwood area to the UGB, including the territory, by Ordinance No. 02-969B on December 5, 2002; and

WHEREAS, Title 11 (Planning for New Urban Areas) of the Urban Growth Management Functional Plan requires annexation to the district prior to application of land use regulations intended to allow urbanization of the territory; and

WHEREAS, Metro has received consent to the annexation from the owners of the land in the territory; and

WHEREAS, the proposed annexation complies with Metro Code 3.09.070; and

WHEREAS, the Council held a public hearing on the proposed amendment on January 13, 2022; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. The Metro District Boundary Map is hereby amended, as indicated in Exhibit A, attached and incorporated into this ordinance.
2. The proposed annexation meets the criteria in section 3.09.070 of the Metro Code, as demonstrated in the Staff Report dated December 27, 2021, attached and incorporated into this ordinance.

ADOPTED by the Metro Council this ____ day of January 2022.

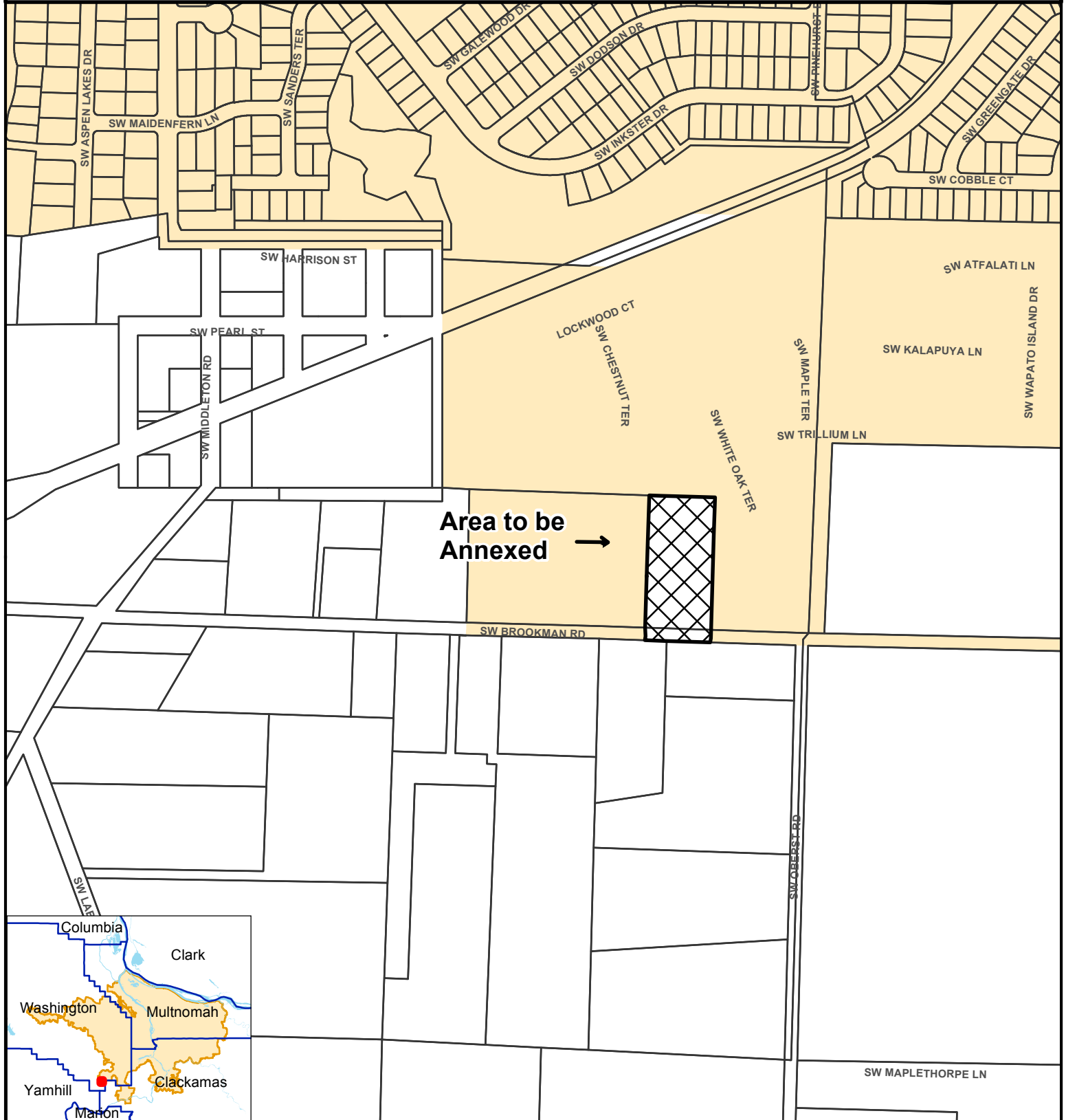
Lynn Peterson, Council President

Attest:

Approved as to form:

Jaye Cromwell, Recording Secretary

Carrie MacLaren, Metro Attorney



Research Center
600 NE Grand Ave
Portland, OR 97232-2736
(503) 797-1742
<http://www.oregonmetro.gov/drc>

 Metro District Boundary
 Taxlots

Proposal No. AN0721



1:5,000

0 500 1,000 Feet

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STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 22-1473, FOR THE PURPOSE OF ANNEXING TO THE METRO DISTRICT BOUNDARY APPROXIMATELY 2.19 ACRES LOCATED AT 17687 SW BROOKMAN ROAD IN SHERWOOD

Date: December 27, 2021
Department: Planning & Development

Prepared by: Tim O'Brien
Principal Regional Planner

BACKGROUND

CASE: AN-0721, Annexation to Metro District Boundary

PETITIONER: Olivia Beach LLC
PO Box 7534
Olympia, WA 98507

PROPOSAL: The petitioner requests annexation of land in Sherwood to the Metro District Boundary.

LOCATION: The land in Sherwood is approximately 2.19 acres in size, is located at 17687 SW Brookman Road and can be seen in Attachment 1.

ZONING: The land is zoned for residential use (MDRH).

The land was added to the UGB in 2002 and is part of the Brookman Addition Concept Plan area that was adopted by Sherwood. The land must be annexed into the Metro District for urbanization to occur.

APPLICABLE REVIEW CRITERIA

The criteria for an expedited annexation to the Metro District Boundary are contained in Metro Code Section 3.09.070.

3.09.070 Changes to Metro's Boundary

(E) The following criteria shall apply in lieu of the criteria set forth in subsection (d) of section 3.09.050. The Metro Council's final decision on a boundary change shall include findings and conclusions to demonstrate that:

- 1. The affected territory lies within the UGB;*

Staff Response:

The land in Sherwood was brought into the UGB in 2002 through the Metro Council's adoption of Ordinance No. 02-969B, thus the affected territory lies within the UGB.

- 2. The territory is subject to measures that prevent urbanization until the territory is annexed to a city or to service districts that will provide necessary urban services; and*

Staff Response:

The conditions of approval for Metro Ordinance No. 02-969B include a requirement that Washington County apply interim protection measures for areas added to the UGB as outlined Urban Growth Management Functional Plan Title 11: Planning for New Urban Areas. Title 11 also requires that new urban areas be annexed into the Metro District Boundary prior to urbanization of the area. Washington County applied the Future Development-20 Acres (FD-20) designation to all the county land in Ordinance 02-969B to prevent premature urbanization of the expansion areas. The City of Sherwood adopted the Brookman Addition Concept Plan in 2009. The property was annexed to the City of Sherwood in May 2021. Thus the affected territory was subject to measures that prevented urbanization until the territory is annexed to the city and any necessary service districts.

3. *The proposed change is consistent with any applicable cooperative or urban service agreements adopted pursuant to ORS Chapter 195 and any concept plan.*

Staff Response:

The subject property is part of the Brookman Addition Concept Plan area adopted by the City of Sherwood in 2009. The proposed annexation is required by Sherwood as part of a land use application. The annexation is consistent with the Washington County-Sherwood Urban Planning Area Agreement adopted in 2017. Thus the inclusion of the property within the Metro District is consistent with all applicable plans and agreements.

ANALYSIS/INFORMATION

Known Opposition: There is no known opposition to this application.

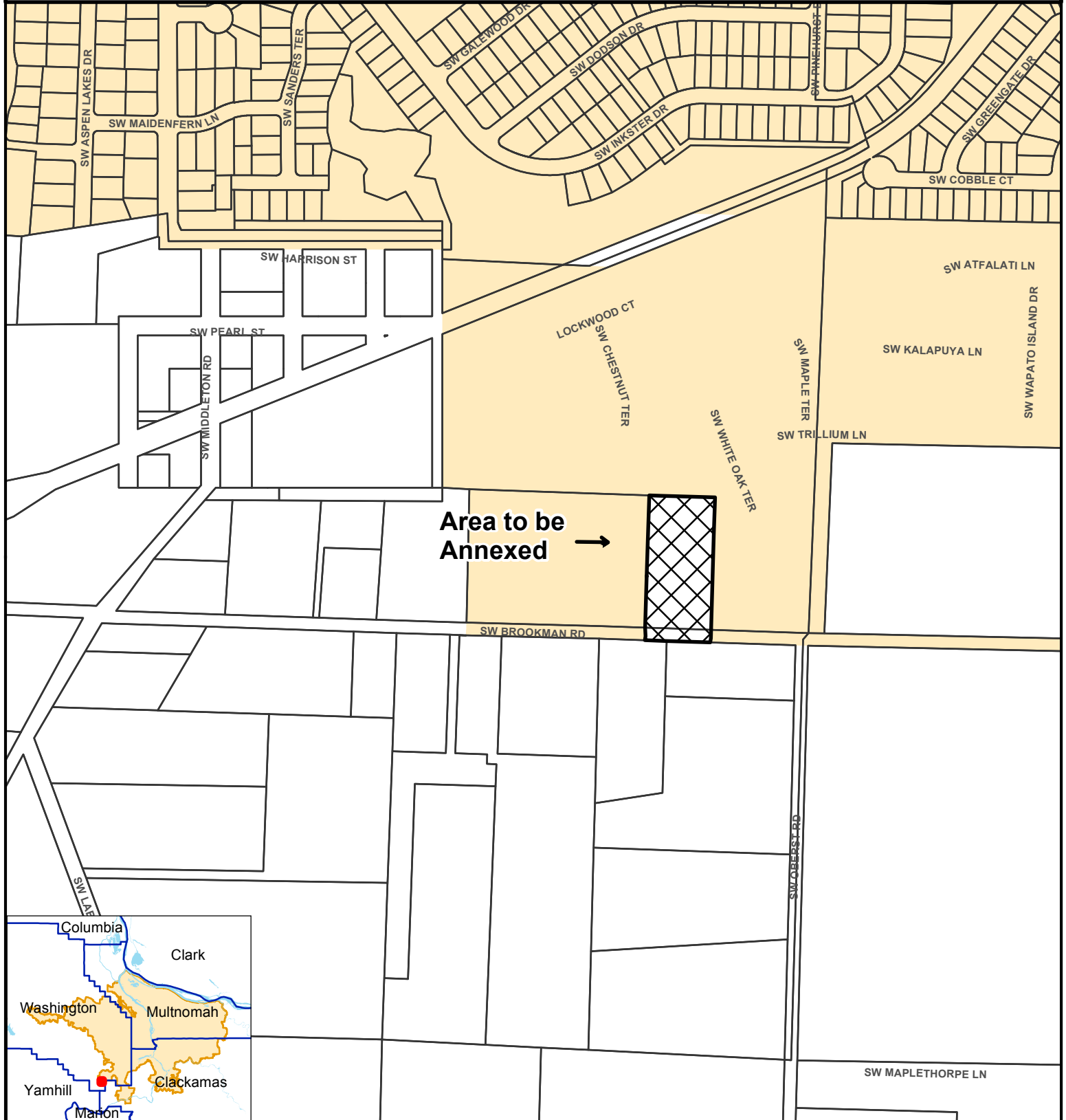
Legal Antecedents: Metro Code 3.09.070 allows for annexation to the Metro District boundary.

Anticipated Effects: This amendment will add approximately 2.19 acres in Sherwood to the Metro District. The land is currently within the UGB and approval of this request will allow for the urbanization of the land to occur consistent with the Brookman Addition Concept Plan.

Budget Impacts: The applicant was required to file an application fee to cover all costs of processing this annexation request, thus there is no budget impact.

RECOMMENDED ACTION

Staff recommends adoption of Ordinance No. 22-1473.



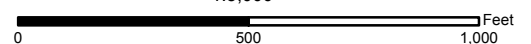
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 Metro District Boundary
 Taxlots

Proposal No. AN0721



1:5,000



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Agenda Item No. 5.2

Ordinance No. 22-1475, For the Purpose of Amending Metro Code Chapter 11.01 to Align Certain Sections with Terms in the Supportive Housing Services Intergovernmental Agreements with Multnomah, Clackamas, and Washington Counties

Ordinances (First Reading)

Metro Council Meeting
Thursday, January 13, 2021

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO	)	ORDINANCE NO. 22-1475
CODE CHAPTER 11.01 TO ALIGN CERTAIN	)	
SECTIONS WITH TERMS IN THE SUPPORTIVE	)	Introduced by Chief Operating Officer
HOUSING SERVICES INTERGOVERNMENTAL	)	Marissa Madrigal in concurrence with
AGREEMENTS WITH MULTNOMAH,	)	Council President Lynn Peterson
CLACKAMAS AND WASHINGTON COUNTIES	)	
	)	

WHEREAS, on May 19, 2020, the Metro area voters approved Metro’s Supportive Housing Services Ballot Measure (“Measure”); and

WHEREAS, on December 17, 2020, the Metro Council adopted Ordinance No. 20-1452, which established a new Metro Code Chapter 11.01 (“Supportive Housing Services Program”) that codified the Measure’s programmatic sections with title, chapter and section numbers; and

WHEREAS, following adoption of Ordinance No. 20-1452 and beginning in June 2021, Metro began negotiations with Multnomah, Clackamas, and Washington Counties (collectively the “Counties”) to enter into three separate Supportive Housing Services Intergovernmental Agreements (“SHS IGAs”) with each county; and

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

WHEREAS, on January 13, 2022, the Metro Council, via Resolution No. 22-5238, authorized the Metro Chief Operating Officer to enter into three separate SHS IGAs with the Counties; and

WHEREAS, certain desired terms in the negotiated SHS IGAs do not align with current language in Metro Code Chapter 11.01, thus necessitating amendments to Metro Code Chapter 11.01; and

WHEREAS, there is also a typographical error in Exhibit A to Ordinance No. 20-1452 (which adopted Metro Code Chapter 11.01) that incorrectly references a non-existent code section; and

WHEREAS, the Metro Council wishes to ensure language in the three SHS IGAs conforms to Metro Code Chapter 11.01 to avoid inconsistency and confusion and further wishes to correct the incorrect section reference; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. Metro Code Sections 11.01.120, 11.01.150, and 11.01.160(b) are amended as set forth in the redlined version of those sections, attached as Exhibit A.

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

Lynn Peterson, Council President

Attest:

Approved as to Form:

Jaye Cromwell, Recording Secretary

Carrie MacLaren, Metro Attorney

11.01.120 Use of Revenues

Unless expressly stated otherwise in this chapter, Supportive Housing Services Revenue may only be used for the purposes set forth in Sections 11.01.030 and 11.01.050, in addition to Metro's costs of collection and administration. Metro may establish a separate fund or funds for the purpose of receiving and distributing Supportive Housing Services Revenues.

11.01.150 Use of Funds in Metro Jurisdictional Boundary Only

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

(b) Notwithstanding subsection (a) above, Supportive Housing Services Revenue may be spent on the temporary provision of services outside the Metro jurisdictional boundary for a duration of less than 90 days for a person who has been living in the Metro jurisdictional boundary if Supportive Housing Services in the boundary are not otherwise available to the person, or for other emergency or unforeseen circumstances if authorized in writing by Metro before the expenditure of funds.

11.01.160 Accountability of Funds

(a) Each county or local government receiving funds must make an annual report to the Metro Council and the Regional Oversight Committee on how funds from the taxes have been spent and how those expenditures have affected established homelessness metrics.

(b) In the annual report, the Local Implementation Partner must demonstrate that County General Fund monies and other dedicated funding levels allocated for homelessness were at least as much as FY ~~20-21~~19-20, in addition to the Supportive Housing Services program funds. A Local Implementation Partner may not displace funds committed before FY ~~20-21~~19-20 except in extenuating circumstances and through a temporary waiver for good cause.

IN CONSIDERATION OF:

Ordinance No. 22-1475, FOR THE PURPOSE OF AMENDING METRO CODE CHAPTER 11.01 TO ALIGN CERTAIN SECTIONS WITH TERMS IN THE SUPPORTIVE HOUSING SERVICES INTERGOVERNMENTAL AGREEMENTS WITH MULTNOMAH, CLACKAMAS AND WASHINGTON COUNTIES

Date: December 30, 2021

Department: Planning, Development & Research

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

Meeting Date: January 13, 2022

Length: 30 minutes

Prepared by: Patricia Rojas,
patricia.rojas@oregonmetro.gov

ISSUE STATEMENT

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

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

On December 17, 2020, Metro Council adopted Ordinance No. 20-1452, which established a new Metro Code Chapter 11.01 ("Supportive Housing Services Program") that codified the Measure's programmatic sections with title, chapter and section numbers. Metro code section 11.01.150 requires SHS funds to be spent within the Metro district boundary.

Additionally, Metro code requires an intergovernmental agreement (IGA) with between The Counties and Metro. The IGA details the roles and obligations of each party, structures and process of oversight and accountability, programmatic requirements, the process by

which Metro will provide effective oversight over the Supportive Housing Services program and accountability that distributed funds are appropriately and transparently spent in accordance with each County's Local Implementation Plan and annual work plan.

Metro code currently requires funds to be spent inside the Metro district boundary with no provision for exceptions in extenuating circumstances. Individuals receiving Metro Supportive Housing Services, for reasons outside of their control, may need to move out of the Metro boundary yet still need the support of this program to achieve and maintain housing stability. Domestic violence, evictions, lack of employment opportunities and lack of safe and affordable housing options are some of the dynamics that can lead this situation. Critical services need to continue for these individuals and The Counties are committed to continuing that support in ending their homelessness and help people stay housed.

The IGA was negotiated to allow The Counties to address this real world scenario. As written, IGA language and Metro code are inconsistent. In order to allow for this reality and prioritize ending homelessness in the region, code will need to be amended.

In order to effectively meet the goals of reducing homelessness in the region in a manner that is compassionate and responsive to the unique needs and circumstances experienced by Metro region residents receiving services, it will be necessary to allow Supportive Housing Services Revenue may be spent on the temporary provision of services outside the Metro jurisdictional boundary for a duration of less than 90 days for a client who has been living in the Metro jurisdictional boundary if Supportive Housing Services in the boundary are not otherwise available to the client, or if otherwise permitted in writing by Metro before the expenditure of funds.

ACTION REQUESTED

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

- Adopt Ordinance No. 22-1475, that amends Metro code as described in Exhibit A to Ordinance No. 22-1475

IDENTIFIED POLICY OUTCOMES

Adoption of Ordinance No. 22-1475 will:

- Preserve the housing stability of service recipients
- Reduce homelessness in the region
- Prevent unnecessary trauma and harm to service recipients
- Prevent code violation by aligning Metro code and IGA language

STAFF RECOMMENDATIONS

Staff recommends Metro Council adopt Ordinance No. 22-1475.

STRATEGIC CONTEXT & FRAMING COUNCIL DISCUSSION

With the passage of Measure 26-210, the voters of the Greater Portland region entrusted Metro and Washington, Clackamas and Multnomah Counties to work together in addressing the region's housing and homelessness crisis.

Metro code requires Metro to enter into IGA's with Multnomah, Clackamas and Washington counties to distribute tax revenue and implement the Metro Supportive Housing program. Through the IGA, the four jurisdictional partners have developed a foundation and programmatic framework that establishes roles and obligations, oversight and accountability and promotes housing stability for thousands of households to accomplish the regional goal of ending chronic homelessness over the next ten years.

While Metro code was written to maintain the integrity of the measure, including restricting revenue expenditures to the Metro district boundary, the measure did not consider the reality of circumstances that will prevent the primary goal of ending homelessness for as many people as possible. The IGA must reconcile the words with the real world application of the measure.

Individuals residing inside the Metro district boundary will be eligible for Metro Supportive Housing Services. Allowing a 90 day period of service continuity for program participants who have no other viable option other than leaving the Metro district to extenuating circumstances will promote the overall goal of reducing homelessness in the region. Situations such as fleeing domestic violence, employment opportunities and lack of safe and affordable housing options are but a few examples of challenges to housing stability that individuals across the region face every day. A 90 day exemption in these types of extreme circumstances will allow for case managers to help individuals maintain housing stability through difficult transitions. This provision will allow critical resources and programming to continue to support program participants while case managers and county partners identify other resources and programs to continue to support that individual after the transition period. Ending homelessness and achieving housing stability are not linear processes and require a reasonable level of flexibility to allow for the life and environmental factors that impact us all. This level of reasonable flexibility with programmatic requirements may mean the difference between preventing or ending homelessness for someone and remaining in or returning to homelessness. The voters of the region and more importantly those experiencing homelessness are counting on Metro and county partners to take measured and reasonable approaches such as this to achieve the goals of the measure.

Materials following this page were distributed at the meeting.



Metro

Supportive Housing Services IGA

Metro Council Meeting

January 13, 2022

Key measures of success in a 10 year program

\$180 million in the first year

5,000

Supportive Housing
Placements
over 10 years

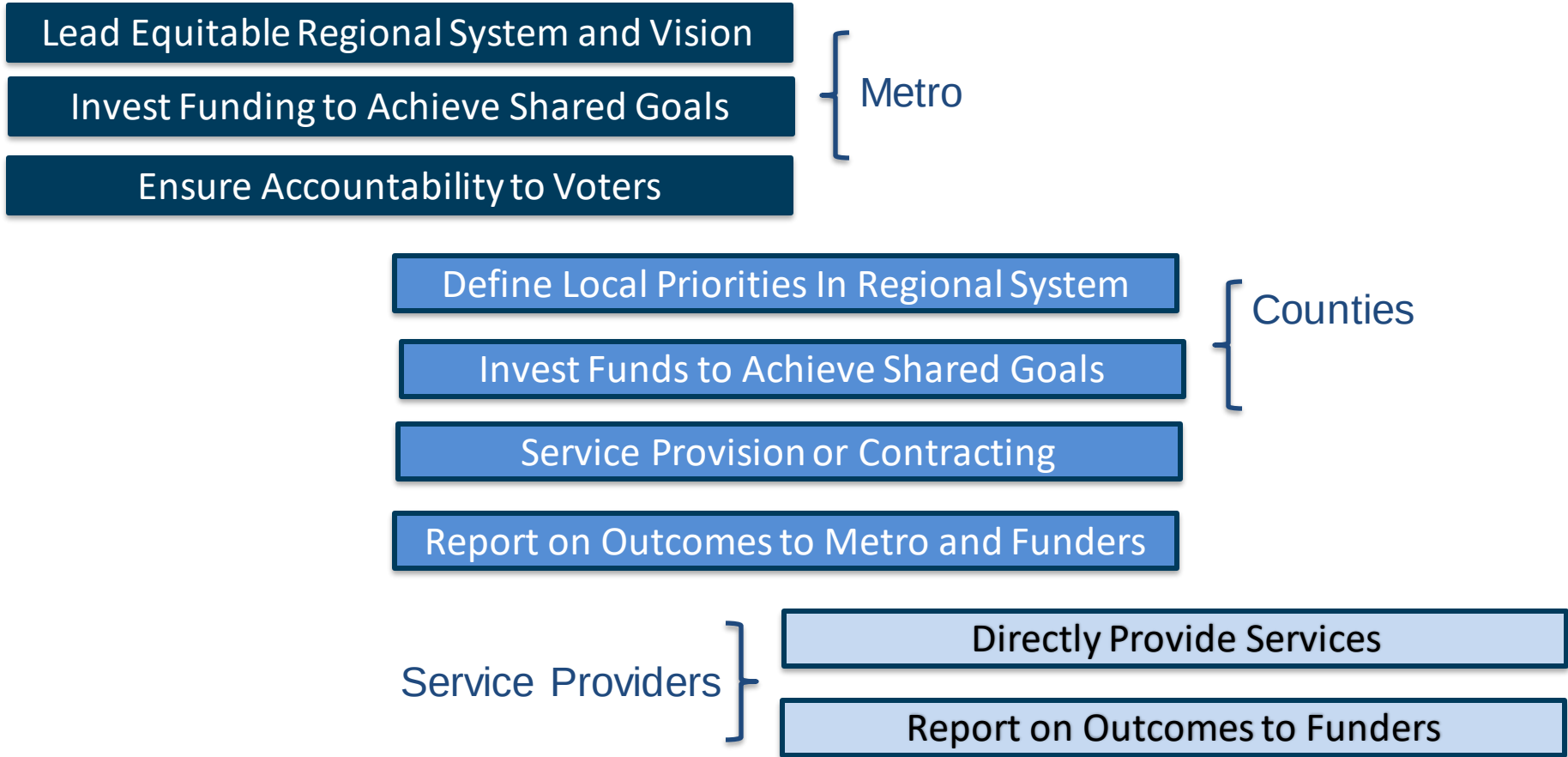
10,000

Households experiencing
or at risk of homelessness
over 10 years



Supportive Housing Services

A new regional system to serve people



Supportive Housing Services Intergovernmental Agreement

Collaboration, Innovation, and Transparency

- Metro
- Clackamas, Multnomah and Washington Counties
- Regional Oversight Committee
- Tri-County Planning Body
- Financial Review Team
- Executive Committee



Oversight and accountability: Transparency

- Regional Oversight Committee (ROC)
- Local Implementation Plans
- Annual work plans
- Annual program budgets
- Annual program reports
- Quarterly progress reports
- Data sharing

Oversight and accountability: Remedies

- Corrective Action Plan (CAP)
- Dispute Resolution
- Withholding
- Termination

Financial Terms

- Financial Review Team
- Forecasting
- Use of Funds
- Stabilization Fund
- Contingency
- TCPB Regional Investment Fund

There is hope

In the first three months:

- Communities across the region have new access to services
- Regional Long Term Rent Assistance (RLRA)
- 700+ new shelter beds opened
- 16 new or expanded programs July 1- Sept. 30
- 400+ individuals engaged with street outreach
- 1,300 households assisted with homelessness prevention
- People are being housed



Metro

A photograph showing two people walking away from the camera on a paved path. The person on the left has long dark hair and wears a plaid shirt and dark pants. The person on the right wears a white long-sleeved shirt, dark pants, and brown boots. They are walking towards a large, multi-story house with light-colored siding and multiple windows. The house is situated on a grassy hill. There are trees with green and some autumn-colored leaves around the property. A parking lot with several cars is visible on the left side of the path.

Metro Council Meeting
Ordinance 22-1475 First Reading
January 13, 2022

Council Action

Ordinance No: 22-1475

For the purpose of amending Metro code chapter 11.01 to align certain sections with terms in the Supportive Housing Services intergovernmental agreements with Multnomah, Clackamas and Washington counties.

January 13, 2022 - First Reading

January 20, 2022 - Second reading and vote