

**ADMINISTRATIVE RULES: METRO CODE CHAPTER 7.04**

**[REVISED MARCH 2017 Revised March 2015]**

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

**I. Metro Administrative Matters.**

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

## **II. Construction Excise Tax Administration.**

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

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

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

(0.0012 x Value of New Construction)

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

### **C. Exemptions (Metro Code Section 7.04.040).**

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

percent (50%) of the median income.

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

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

Staff report for Resolution No. 17-4782: Attachment 2

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

D. Ceiling (Metro Code Section 7.04.045).

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

Staff report for Resolution No. 17-4782: Attachment 2

- E. Rebates (Metro Code Section 7.04.120). If a CET has been collected and a CET Exemption or the CET Ceiling was applicable, a rebate for the CET may be obtained from Metro.
1. Procedures for obtaining rebate are:
    - a. Within thirty (30) days of paying the CET, the Person who believes that the CET was not applicable due to a CET exemption or CET Ceiling, shall apply for a rebate in writing to Metro and provide verification that the exemption eligibility provisions of Metro Code Section 7.04.040, or that the CET Ceiling provisions of Metro Code Section 7.04.045, have been met. Failure to seek a rebate within the thirty (30) day time limit will terminate a Person's right to seek a rebate.
    - b. Applicant shall provide proof that the CET was paid, in the form of a paid receipt from the building permit issuer showing the tax was paid. All supporting documentation for the exemption or ceiling shall be submitted at the time of the rebate claim. The rebate will only be made to the name that is listed on the receipt unless the applicant has a written assignment of rebate.
    - c. A rebate or a letter of denial shall be issued by Metro within thirty (30) days of receipt of a written request for rebate provided that the request includes all required information. The rebate will be calculated based upon the paid receipt, less the five percent (5%) administrative fee already retained by the building permit issuer and the five percent (5%) Metro administration fee.
- F. Refunds (Metro Code Section 7.04.150). If a CET has been collected and the Construction was not commenced and the building permit was cancelled, a refund for the CET may be obtained from Metro.
1. Eligibility is determined by the absence of Construction and cancellation of the building permit.
  2. Procedures for obtaining refund:
    - a. Apply in writing to Metro within thirty (30) days of permit cancellation.
    - b. Provide copy of canceled permit.
    - c. Provide proof of payment of the tax in the form of the paid receipt.
    - d. A refund or a letter of denial shall be issued by Metro within thirty (30) days of receipt of the written request for refund provided that the request includes all required information. The refund will be calculated based upon the paid receipt, less the five percent (5%) administrative fee already retained by the building permit issuer and the five percent (5%) Metro administration fee.
    - e. Failure to seek a rebate within the thirty (30) day time limit will terminate a Person's right to receive a refund.

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

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

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

I. CET Sunset (Metro Code Section 7.04.230).

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

### **III. CET Collection Procedures.**

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

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

## Staff report for Resolution No. 17-4782: Attachment 2

construction for the exempted construction; the aggregate amount of CET paid; and the amount of CET administrative fee retained by the local government pursuant to this CET Collection IGA.

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

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

**IV. Revenue Distribution (Metro Code Section 7.04.220).**

- A. Grant Cycles. CET funds collected pursuant to the 2014 extension of the CET shall be allocated in ~~three-five new~~ application assessment cycles (Cycle 4, Cycle ~~5-and~~, Cycle 6, Cycle 7, and Cycle 8).

1. The Cycle 1 fund distribution took place in March 2006, which allocated up to \$6.3 million in grants. Grant requests in this cycle were made for planning only in new areas that were brought into the Urban Growth Boundary (UGB) between 2002 and 2005.
2. The Cycle 2 grant allocation through the Community Planning and Development Grant program (CPDG) took place in June 2010, which allocated up to \$3.~~57-7~~ million in CET Grant revenue. Grant requests in this cycle were made for planning in all areas inside the UGB as of December 2009.
3. The Cycle 3 grant allocation through the CPGD program took place in August 2013, which allocated \$4.5 million in grants. Grant requests in this cycle were made ~~-for~~ planning in all areas that are in the UGB as of December 2009, plus areas added to the UGB since 2009 and Urban Reserves. ~~-This cycle earmarked fifty percent (50%) of projected CET revenues for planning in areas added to the UGB since 2009 and Urban Reserves, and required that if the amount of qualified Grant Requests for areas added to the UGB since 2009 and Urban Reserves does not equal or exceed the earmarked amounts, the remainder of funds may be allocated to Grant Requests for planning in other areas.~~
4. The Cycle 4 grant allocation through the CPGD program shall take took place in 2015-2016 for planning in all areas that are in the UGB and Urban Reserves. This ~~grant allocation cycle shall~~ earmarked ed seventy percent to seventy five percent (70% to 75%) of projected revenue for planning within the existing UGB, and earmark twenty five percent to thirty percent (25% to 30%) of projected revenue for concept planning and comprehensive planning for urban reserves and new urban areas, and required d that if the amount of qualified Grant Requests for areas added to the UGB since 2009 and Urban Reserves ~~does-did~~ not equal or exceed the earmarked amounts, the remainder of funds may be allocated to Grant Requests for planning in other areas. A total of approximately \$4.7 million in grants was awarded. In 2016-17 an additional cycle of grants was conducted to support Equitable Housing Planning and Development projects. A total of \$575,000 in funding was awarded.
5. The Cycle 5 grant allocation shall take place in 2017-2018 for planning in all areas that are in the UGB and Urban Reserves. This grant allocation shall earmark seventy percent to seventy five percent (70% to 75%) of projected revenue for planning within the existing UGB, and earmark twenty five percent to thirty percent (25% to 30%) of projected revenue for concept planning and comprehensive planning for urban reserves and new urban areas, and require that if the amount of qualified Grant Requests for such projects~~areas added to the UGB since 2009 and Urban Reserves~~ does not equal or exceed the earmarked amounts, the remainder of funds may be allocated to Grant Requests for planning in other areas.
6. The Cycle 6 grant allocation shall take place in ~~2019~~2018-2020-2019 for planning in all areas that are in the UGB and Urban Reserves. This grant allocation shall earmark seventy percent to seventy five percent (70% to 75%) of projected revenue for planning within the existing UGB, and earmark twenty five percent to thirty percent (25% to 30%) of projected



revenue for concept planning and comprehensive planning for urban reserves and new urban areas, ~~and require that if the amount of qualified Grant Requests for such projects does not equal or exceed the earmarked amounts, the remainder of funds may be allocated to Grant Requests for planning in other areas.~~~~and require that if the amount of qualified Grant Requests for areas added to the UGB since 2009 and Urban Reserves does not equal or exceed the earmarked amounts, the remainder of funds may be allocated to Grant Requests for planning in other areas.~~

7. ~~The Cycle 7 grant allocation shall take place in 2019-2020 for planning in all areas that are in the UGB and Urban Reserves. This grant allocation shall earmark seventy percent to seventy five percent (70% to 75%) of projected revenue for planning within the existing UGB, and earmark twenty five percent to thirty percent (25% to 30%) of projected revenue for concept planning and comprehensive planning for urban reserves and new urban areas, and require that if the amount of qualified Grant Requests for such projects does not equal or exceed the earmarked amounts, the remainder of funds may be allocated to Grant Requests for planning in other areas.~~
8. ~~The Cycle 8 grant allocation shall take place in 2020-2021 for planning in all areas that are in the UGB and Urban Reserves. This grant allocation shall earmark seventy percent to seventy five percent (70% to 75%) of projected revenue for planning within the existing UGB, and earmark twenty five percent to thirty percent (25% to 30%) of projected revenue for concept planning and comprehensive planning for urban reserves and new urban areas, and require that if the amount of qualified Grant Requests for such projects does not equal or exceed the earmarked amounts, the remainder of funds may be allocated to Grant Requests for planning in other areas.~~
79. These cycles may be delayed or amounts reduced if the actual CET receipts remitted by the local governments are not as high as projected, or if CET revenue projections are modified due to market conditions, or if required by Metro's spending cap limitations.
810. Metro may conduct additional allocation cycles if the Metro Chief Operating Officer finds that CET receipts are projected to exceed the grant amounts awarded in Cycles ~~4 and Cycle 5, 6, 7 and 8.~~ ~~Cycle 6.~~

B. CPDG-2040 Grants Screening Committee.

1. Role. A ~~CPDG2040 Planning and Development Grants~~ Screening Committee ("Committee") shall be created, which ~~Committee~~ shall review Grant Requests submitted by local governments. The Committee shall advise and recommend to the Metro Chief Operating Officer ("COO") the ranking and recommended grant amounts, and whether to grant full, partial, or no awards, in accordance with the grant Evaluation Criteria set forth below. ~~The COO shall review the Committee's recommendations and shall forward her/his own grant recommendations, along with the recommendations of the Committee, to the Metro Council. The Metro Council shall make final grant decisions in a public hearing. A new CPGD Screening Committee shall be established for Cycle 4, Cycle 5 and Cycle 6 grants, but may include members from the previous Committees.~~
2. ~~CPDG Screening~~ Committee Members. The COO shall appoint six to nine members to the Committee, including the Committee Chair. A new CPGD Screening Committee shall be established for Cycle 4, Cycle 6, Cycle 7 and Cycle 8 grants, but may include members from the previous Committees. Skill sets to be represented will be composed of the following

expertise:

- Economic development;
- Urban planning;
- Real estate and finance;
- Infrastructure finance relating to development or redevelopment;
- Local government;
- Urban renewal and redevelopment;
- Business and commerce;
- Neighborhood Association or Community Planning Commission with an understanding of community livability issues; and
- Environmental sustainability relating to development or redevelopment.
- Social equity relating to community development and redevelopment planning

### C. Range of Eligible Grant Project Types

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

### D. Grant Application Procedures

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

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

E. Grant Request Evaluation Criteria

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

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

C.F. ~~CPDG Screening Committee~~ Review of Grant Requests.

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

~~3. After analyzing the Grant Requests, the Committee shall forward to the Metro COO the Committee's recommended ranking and grant amounts for each of the Grant Requests.~~

3. The Metro COO shall review the Committee's recommendations and shall forward her/his own grant recommendations, based on the CPDG-Grant Requests Evaluation Criteria set forth ~~below~~above, along with the recommendations of the Screening Committee, to the Metro Council.

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

~~D. Metro Council Grant Approval. The Metro COO shall review the Committee's recommendations and shall forward her/his own grant recommendations, along with the recommendations of the Screening Committee, to the Metro Council. The Metro Council shall make final grant decisions in a public hearing.~~

EG. General Procedures for Entering into Grant Agreements. Distribution.

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~~1. Step One: Pre Grant Letter of Intent. Prior to making a request to Metro for CPDG funds, each Grant Applicant that anticipates requesting CPDG funds in Cycle 4, Cycle 5 and Cycle 6 shall submit electronic Letter of Intent to the Metro COO.~~

~~a. Grant Applicant. CPDG applicants shall be cities or counties within the Metro boundary. Other local governments, as defined in ORS 174.116, may apply for a CPDG only in partnership with a city or county within the Metro boundary.~~

~~b. Letter of Intent Content. The Letter of Intent shall set forth the local government's proposed planning project, the requested grant amount, how the project will address the CPDG Request Evaluation Criteria, and proposed milestones for grant payments. Metro staff and the grant applications Screening Committee shall review the Letter of Intent and Metro staff will send comments to the local governments.~~

~~2. Step Two: Grant Request. After submitting the Letter of Intent, and after working with Metro staff and Screening Committee if necessary, to revise the proposal, Grant Applicants shall submit an electronic Grant Request to the Metro Chief Operating Officer. The grant request shall include support of the governing body and matching fund commitment with allocation of fund and/or staff resources for the proposed project.~~

~~A) Grant Request Evaluation Criteria for proposed projects within the current UGB.~~

~~For proposed projects within the UGB, the Grant Request shall specifically address how the proposed grant achieves, does not achieve, or is not relevant to, the following criteria ("CPDG Grant Evaluation Criteria"), consistent with the intent of the Urban Growth Management Functional Plan. Applicants should refer to the Application Handbook for information and guidance regarding how to address specific evaluation criteria set forth below.~~

~~1) Expected Development Outcomes: Explain what planning activities are proposed to be undertaken with the planning and development grant, and how those activities will identify and reduce the barriers to developing complete communities. Address:~~

- ~~a) Identification of opportunity site/s within the boundary of the proposed project area with catalyst potential that focus on jobs growth and/or housing. Explain the characteristics of the site/s and how the proposed project will lead to a catalytic investment strategy with private and public sector support.~~
- ~~b) Clearly articulated and realistic desired outcomes from the planning grant that increase community readiness for development.~~
- ~~c) The level of community readiness and local commitment to the predicted development outcomes; considerations include:~~
  - ~~i. Track record of successful implementation of community development projects and/or past CPDG plan implementation~~
  - ~~ii. Development sites of adequate scale to generate critical mass of activity;~~
  - ~~iii. Existing and proposed transportation infrastructure to support future development;~~
  - ~~iv. Existing urban form provides strong redevelopment opportunities;~~
  - ~~v. Sound relationship to adjacent residential and employment areas;~~
  - ~~vi. Compelling vision and long-term prospects;~~
- ~~d) Describe the roles and responsibilities of the applicant and county or city, and relevant service providers for accomplishing the goals of the proposed project.~~
- ~~2) Regionally Significant: Clearly identify how the proposed planning grant will benefit the region in achieving established regional development goals and outcomes, including sustainability practices, expressed in the 2040 Growth Concept and the six Desired Outcomes, adopted by the region to guide future planning, which include:~~
  - ~~a) People live and work in vibrant communities where their everyday needs are easily accessible;~~
  - ~~b) Current and future residents benefit from the region's sustained economic competitiveness and prosperity;~~
  - ~~c) People have safe and reliable transportation choices that enhance their quality of life;~~
  - ~~d) The region is a leader in minimizing contributions to climate change;~~
  - ~~e) Current and future generations enjoy clean air, clean water and healthy ecosystems;~~
  - ~~f) The benefits and burdens of growth and change are distributed equitably.~~
- ~~3) Centers, Corridors, Station Communities and Main Streets: Areas identified on the 2040 Growth Concept Map in the Metro Regional Framework Plan as Centers, Corridors, Station Communities and Main Streets have been recognized as the principal centers of urban life in the region. These areas are at different stages of development and each has its own character. For planning projects proposed for or within these areas, describe how the planning actions identified in Title 6 of the Metro Urban Growth Management Functional Plan have been previously addressed or will be addressed as part of the proposed project. This includes establishing an area boundary, performing an assessment of the areas, and adopting a plan of actions and investments.~~

~~4) Other locations: Discuss how the proposed planning grant facilitates development or redevelopment of the following areas, as applicable:~~

~~a) Employment and industrial areas;~~

~~b) Areas recently brought into the UGB where concept planning has been completed but where additional planning and implementation work is needed in order to make these areas development ready; and/or~~

~~c) Areas with concentrations of underserved or underrepresented groups.~~

~~5) Best Practices Model: Consideration will also be given to applications that can be easily replicated in other locations and demonstrate best practices. Discuss how lessons learned from the planning project will be shared with other communities in the region.~~

~~6) Leverage: Discuss whether and how the proposed planning grant will leverage outcomes across jurisdictions and service providers, or create opportunities for additional private/public investment. Investments can take the form of public or private in-kind or cash contributions to the overall planning activity.~~

~~7) Matching Fund/Potential: A ten percent (10%) local match is required either as a direct financial contribution or as an in-kind contribution. Discuss whether any portion of the total project cost will be incurred by the applicant and/or its partners. Explain specific portions of the work scope the match money would fund.~~

~~8) Growth Absorption: Discuss how this project will create opportunities to accommodate expected population and employment growth consistent with local planning.~~

~~9) Public Involvement: Discuss whether and how the public, including neighbors of the project, businesses, property owners, key stakeholders, and disadvantaged communities including low income and minority populations, will be involved in the project and how their input will be used to strengthen the project outcomes and increase the likelihood of implementation.~~

~~10) Governing Body: Describe the role of the governing body in relation to:~~

~~a) The type of action to be taken to implement the final product; and~~

~~b) Where applicable, how public voting requirements for annexation and transit improvements will be addressed so that the outcome of proposed planning projects can be realized.~~

~~11) Capacity of applicant: Describe the skill set needed and the qualifications of the staff and/or consulting teams proposed to carry out the planning project.~~

**~~B) Grant Request Evaluation Criteria for proposed projects within areas added to the UGB since 2009 and Urban Reserves.~~**

~~Grant requests for projects in areas added to the UGB since 2009 and Urban Reserves shall specifically address how the proposed grant achieves, does not achieve, or is not relevant to the following criteria, drawn from the Urban Growth Management Functional Plan (UGMFP). While the UGMFP's Title 11 (Planning for New Urban Areas) calls for completion of a concept plan prior to Council decision to add the area to the UGB, award of a grant for concept planning in urban reserves by the Metro Council should not be interpreted as a commitment by Metro to add the area to the UGB in the next cycle. Applications should note whether the~~

~~planning project includes an Urban Reserve area. The Screening Committee shall emphasize using available funds to spur development. Applicants should refer to the Application Handbook for information and guidance regarding how to address specific evaluation criteria set forth below.~~

~~1) Address Title 11 requirements for a concept plan or comprehensive plan. Describe how the proposed planning grant will address the requirements for either a concept plan or comprehensive plan or both as described in Title 11.~~

~~a) If not proposing to complete a full plan, describe how the portion proposed will result in an action that secures financial and governance commitment that facilitates the next steps in the planning process.~~

~~b) If not proposing a planning grant for the full Urban Reserve area, describe how the proposal will still allow for coordinated development of the entire area as a complete community and address any applicable principles for concept planning of urban reserves contained in the urban and rural reserve intergovernmental agreement between Metro and the county.~~

~~2) Regionally Significant: Unless addressed in criteria #1, describe how the proposed planning grant will benefit the region in achieving established regional development goals and outcomes, including sustainability practices, as expressed in the 2040 Growth Concept and the Six Desired Outcomes adopted by the Metro Council to guide future planning in the region, which include:~~

~~a) People live and work in vibrant communities where their everyday needs are easily accessible;~~

~~b) Current and future residents benefit from the region's sustained economic competitiveness and prosperity;~~

~~c) People have safe and reliable transportation choices that enhance their quality of life;~~

~~d) The region is a leader in minimizing contributions to climate change;~~

~~e) Current and future generations enjoy clean air, clean water and healthy ecosystems; and~~

~~f) The benefits and burdens of growth and change are distributed equitably.~~

~~3) Address how the proposed project will meet local needs and contribute solutions to regional needs. Describe whether and how the proposal will meet a variety of community needs, including land uses such as mixed use development and large lot industrial sites that are anticipated to continue to be regional needs.~~

~~4) Demonstrate jurisdictional and service provider commitments necessary for a successful planning and adoption process. Applications should reflect commitment by county, city and relevant service providers to participate in the planning effort and describe how governance issues will be resolved through or prior to the planning process. Describe the roles and responsibilities of the county, city and relevant service providers for accomplishing the commitments.~~



~~5) Address readiness of land for development in areas added to the UGB since 2009 and Urban Reserves. For applications in areas added to the UGB since 2009, demonstrate that market conditions would be ready to support development and efficient use of land or define the steps that the project would undertake to influence market conditions.~~

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~~6) Best Practices Model: Consideration will also be given to applications that can be easily replicated in other locations and demonstrate best practices. Discuss how lessons learned from the planning project will be shared with other communities in the region.~~

~~7) Leverage: Discuss whether and how the proposed planning grant will leverage outcomes across jurisdictions and service providers, or create opportunities for additional private/public investment. Investments can take the form of public or private in-kind or cash contributions to the overall planning activity.~~

~~8) Matching Fund/Potential: A ten percent (10%) local match is required either as a direct financial contribution or in-kind contribution. Discuss whether any portion of the total project cost will be incurred by the applicant and/or its partners. Explain specific portions of the work scope the match money would fund.~~

~~9) Growth Absorption: Explain how this project will create opportunities to accommodate expected population and employment growth consistent with local planning.~~

~~10) Public Involvement: Discuss whether and how the public, including neighbors to the project, businesses, property owners, key stakeholders, and disadvantaged communities including low income and minority populations, will be involved in the project and how their input will be used to strengthen the project outcomes and increase the likelihood of implementation.~~

~~11) Governing Body: Describe the role of the governing body in relation to:~~

~~a) The type of action to be taken to implement the final product; and~~

~~b) Where applicable, how public voting requirements for annexation and transit improvements will be addressed so that the outcome of proposed planning projects can be realized.~~

~~12) Capacity of applicant: Describe the skill set needed and the qualifications of the staff and/or consulting teams proposed to carry out the planning project.~~

### **~~C) Proposed Scope of Work, Milestones and Budget.~~**

~~The Grant Request shall include a proposed scope of work and budget, setting forth the expected completion dates and costs for achieving the milestones proposed in the Grant Request. The Grant Request shall include also outcome measures specific to the project and source of data and information for Metro's use for evaluation of the progress of the CPDG program. Milestones and grant payment allocations should follow the following general guidelines:~~

~~1) Execution of the CPDG IGA;~~

~~2) Grant Applicant staff's draft or proposed plan, report, code change, zoning change, redevelopment plan, Urban Growth Diagram, Concept Plan, urban services delivery plan, or other plan or agreement consistent with the CPDG;~~

~~3) Grant Applicant staff's final recommended plan, report, code change, redevelopment plan, zoning change, Comprehensive Plan or Comprehensive Plan amendment, development agreement, urban services delivery plan, or other plan or agreement consistent with the CPDG award, addressing compliance with the Urban Growth Management Functional Plan, the applicable conditions of the CPDG award, and applicable state laws and regulations; and~~

~~4) Grant Applicant's action on the final plan, report, code change, redevelopment plan, zoning change, Comprehensive Plan or Comprehensive Plan amendment, urban services delivery plan, or other plan or agreement consistent with the CPDG award, consistent with the Functional Plan, the applicable conditions of the CPDG award, and applicable state law. The governing body of the applicant shall authorize the action on the final products.~~

~~5) Grant Applicant's proposed outcome measures specific for the project and source of data and information for Metro's use for evaluation of the progress of this grant program.~~

~~6) Grant Applicant's proposed method of sharing lessons learned during the planning project for the purpose of benefiting other jurisdictions in the region.~~

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

2. ~~Negotiation of the draft Intergovernmental Agreement ("IGA").~~ Upon the award of a grant, the Metro COO shall issue a Grant Letter for the grant amount determined by the Metro Council. Metro and the Grant Applicant shall ~~enter into a~~negotiate the terms of the Grant Intergovernmental Agreement ("IGA") The scope of work in the grant application as modified by any condition in Metro Council grant award shall be the basis for Metro and grantee to negotiate the draft IGA. ~~The governing body of the Grant applicant jurisdiction shall authorize the approval of the IGA.~~ The draft IGA shall set forth the role of Metro's project liaison on the project advisory committee, an agreed-upon scope of work and budget, completion dates of expected milestones and deliverables, and Grant payment dates matching funds and grant and payment amounts for each milestone, and any administrative penalties that may be imposed by Metro for amendments to the IGA or project timeline that may be requested by the applicant. The IGA shall retain the right of the Metro COO to terminate a Grant award if the milestones set forth in the IGA are not met within the timeframes set forth in the IGA. ~~The scope of work in the grant application and guidelines above as modified by any condition in Metro Council grant award shall be the basis for Metro and grantee to negotiate the IGA.~~

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

Draft contract with project consultants: Following final selection of project consultants, applicant shall prepare draft contracts with all consultants that fully describe the deliverables and timelines as set forth in the draft IGA and provide maximum costs for each consultant task.

4.

5. a.—Execution of the ~~Deadline for Signing~~ final IGA: The draft consultant contracts shall be attached as an exhibit to the final IGA. The governing body of the Grant applicant jurisdiction

shall authorize the approval of the IGA. Following execution of the IGA by appropriate personnel on behalf of the local governing body, the COO shall execute the IGA. If the IGA has not been finalized and signed by Metro and grantee within six months of grant award, the COO shall exercise the authority to cancel the grant award.

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

H. General Procedures for Distribution of Grant Funds.

~~b. Grant Payments. : The grant payment amount and marching fund shall be stated in the IGA.~~ Grant payments shall be made upon the completion of those milestones set forth in the IGA, as determined by Metro in accordance with the requirements of the Metro Code and the IGA. In general, a portion of the Grant funds ~~shall may~~ be distributed ~~upon following~~ execution of ~~a the~~ IGA ~~with by~~ Metro, with the remainder of the Grant being paid out as progress payments upon completion of the milestones in the IGA. Grantees shall submit progress reports to Metro documenting the milestone and the completed deliverables for grant payment.

~~c. Eligible Expenses.~~

~~1. The following expenses shall be considered Eligible Expenses for CPDG consideration for eligible direct costs, which will have priority for funding over indirect costs:~~

~~1.~~

2. Eligible Grant Expenses. -The following expenses shall be considered eligible expenses for reimbursement with grant funds:

- Materials directly related to project
- ;~~C~~Consultants' work and expenses on project;
- GGrant aApplicant staff support directly related to project; and
- Overhead directly attributable to project.

3. Ineligible Grant Expenses. Grant requests to reimburse local governments for planning work already completed shall not be considered.

~~a) \_\_\_\_\_~~

~~b) Consultants' work on project;~~

~~c) Grant Applicant staff support directly related to project; and~~

~~d) Overhead directly attributable to project;~~

~~2. Grant requests to reimburse local governments for planning work already completed shall not be considered.~~

~~3. If the total Grant Requests from participating Grant Applicants exceed the total CET actual revenues, Metro shall first consider awarding funds for eligible direct costs, which will have priority for funding over indirect costs.~~

~~d) Metro staff liaison: Grantees shall work closely with the Metro staff liaison, and include them in the appropriate advisory committee for the project.~~

~~e) Completion of grant project: The COO shall retain the right to terminate a CPDG award if the milestones set forth in the IGA are not met within the timeframes set forth in the IGA.~~

~~4. **Application Handbook:** Before soliciting applications for the planning and development grants, Metro shall publish a handbook with details on how to submit applications, prepare a project budget linked to expected outcomes and milestones, and deadlines for applicants to submit letters of intent and full applications.~~