

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO.18-1425, FOR THE PURPOSE OF REMOVING THE SUNSET PROVISION OF THE METRO CONSTRUCTION EXCISE TAX THAT FUNDS THE 2040 PLANNING AND DEVELOPMENT GRANT PROGRAM AND AMENDING OTHER PORTIONS OF METRO CODE CHAPTER 7.04

AND

IN CONSIDERATION OF RESOLUTION NO.18-4916, FOR THE PURPOSE OF APPROVING POLICY AND INVESTMENT FRAMEWORK FOR CYCLE 7 OF THE 2040 PLANNING AND DEVELOPMENT GRANT PROGRAM

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BACKGROUND

CET and Sunset Provision

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

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

Originally conceived as a source of funding primarily for concept planning of land that had recently been brought into the urban growth boundary (UGB) in order to make it ready for development, the grant program has evolved over time to respond to current local and regional development priorities and changing regulatory frameworks. In later grant cycles, projects that removed barriers to infill development in existing urban areas already served by infrastructure were favored over planning of lands at the region's edge, where the lack of infrastructure had stalled development. During the most recent three grant rounds, funding has been specifically targeted for equitable housing as well as other types of planning and development projects designed to promote equity throughout the region.

In February, 2016 the Metro Auditor conducted a review the Community Planning and Development Grant program and made recommendations for improvements. At the outset of the next grant cycle ("Cycle 5") slated for 2017, the COO and staff gave additional consideration to how the CPDG and Equitable Housing Planning and Development Grant programs evolved, and what could make the programs more effective. On April 6, 2017 the Council approved Resolution 17-4782, authorizing additional administrative rule changes and program adjustments. The program switched to an annual

grant award cycle and one application process for all grant types. The CPDG program name was also changed to 2040 Planning and Development Grants. The program began to utilize the ZoomGrants software, and revised other application procedures to be more user-friendly and better assist applicants with grant project development.

Since the program's inception, Metro has awarded over \$23.5 million in grants to local cities, counties, and other government entities. CET funding for this grant program provides a critical ongoing funding mechanism to support many essential and required planning activities necessary for jurisdictions to comply with land use regulations and to implement the region's long range vision.

Ordinance 18-1425: Proposed Amendments to Metro Code Chapter 7.04

Removal of the December 2020 sunset provision of the CET requires an ordinance to amend the Metro Code. Once the code has been amended, the COO has the authority to subsequently make revisions to the grant program's administrative rules without requiring further formal action by the Metro Council. In addition to removal of the sunset provision, edits to four other subsections of the code are proposed in order to more accurately reflect current program policies and facilitate program administration:

- 7.04.020 Policy and Purpose: update the language to better align with the current purpose of the grant program, which includes not only planning for new urban areas but also projects that facilitate infill development or redevelopment within the UGB.
- 7.04.040 Exemptions (a)(2): amend the eligible income threshold for affordable housing projects to receive an exemption from paying the CET; the threshold was raised from affordable units to be occupied by people with incomes less than 50% of median income to 60% of median income, which is a typical affordability level for projects to receive state tax credits.
- 7.04.040 Exemptions (a)(3): remove the specific numeric income threshold for recipients of charitable services; removed language stipulating that the projects had to be for providing charitable services to Persons with incomes lower than 50% of the median income in order to be exempt; amended language stipulates that the construction must be dedicated "for providing charitable services to disadvantaged people," which is a more practical requirement for many charities that do not require clients they are serving to provide proof of income.
- 7.04.210 Dedication of Revenue: update the language to better align with the current purpose of the grant program, which includes not only planning for new urban areas but also projects that facilitate infill development or redevelopment within the UGB.
- 7.04.220 Procedures for Distribution: update the language to reference implementation of the region's long range vision rather than the Urban Growth Management Functional Plan; add language to expand the range of eligible grant recipients to include other entities besides local governments, provided that the proposed project is endorsed by a local government and in the public interest; this may allow flexibility in future and spur innovative public-private partnerships.
- 7.04.230 Sunset Provision: delete section.

Policy and Investment Framework and Performance in Recent Grant Cycles

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

At the outset of Grant Cycle 5, to help address the region's continuing housing crisis, especially for people of color and low-income residents, Resolution 17-4782 established an investment emphasis targeting 50% of the grant funds in the cycle to fund equitable development projects. During that round, Metro received 18 complete applications requesting \$3.7 million in grant funding. Fourteen of the applications requested consideration in the equitable development funding category. In October, 2017 the Council passed Resolution 17-4846 awarding \$1.99 million in grant funds to 9 projects; \$984,000 or 49.5% of available funds were awarded to projects that had a strong emphasis on equitable development.

As part of the Strategy to Advance Racial Equity, Diversity and Inclusion adopted by Metro Council in Resolution No. 16-4708 in June 2016, the Planning and Development Department has been reviewing programs and policies to identify improvements that could to help advance racial equity throughout the region. The investment framework established for Grant Cycle 6 was similar to the framework for Cycle 5 as far as funding targets, but provided further clarity about the types of projects that could be eligible for consideration in the Equitable Development funding category. For Cycle 7, this language has been further refined for clarity as shown below:

...funding will be targeted for qualified projects that will facilitate implementation of equitable development projects inside the UGB, which may include but are not limited to:

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

In Cycle 6, Metro received a total of 11 grant applications from nine jurisdictions requesting a combined total of \$2.3 million. Six of eleven projects requested funding in the Equitable Development Category

and five of the six requests were approved for full or partial funding, with a combined total of \$895,000 or 45% of Grant funds.

Proposed Policy and Investment Framework for Cycle 7

Our region continues to have an affordable housing crisis that disproportionately affects people of color, and multiple tools, strategies, and approaches are needed across the region to promote equitable development. Metro staff recommend that the Council continue to target \$1 million in grant funding in Cycle 7 for projects that have an equitable development emphasis. Staff recommend that the Council target \$250,000 in funding for other qualified projects to facilitate development within the Urban Growth Boundary. Staff recommend that funding for concept planning projects in urban reserves and comprehensive planning of new urban areas be increased to \$750,000 in Cycle 7 for a combined total of \$2.00 million in available grant funding.

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

The increase in Cycle 7 funding for concept planning and comprehensive planning is recommended because of the anticipated increase in applications for comprehensive planning by the four cities for the new urban areas that the COO has recommended for inclusion within the UGB. This comprehensive planning is necessary to meet the requirements of Urban Growth Management Functional Plan Title 11 for land added to the UGB. The COO's recommendation calls for grant funds to be allocated to King City to assist them with continued planning work including a market feasibility study for their proposed new town center. Increasing the available funds will enable Metro to follow through on this commitment to King City while also ensuring that a sufficient pool of funding is available for grants to other jurisdictions in the event that Metro receives multiple compelling grant applications in this funding category.

In the event that there are insufficient qualified applications within any one funding target category, grant funds may be awarded to qualified applications in any other category. The screening committee, the COO, and the Council will ultimately bring their own professional judgment and common sense to applying the grant criteria, allocating resources from each funding target and determining what projects best meet all criteria (including regional policy priorities and equitable development objectives) and therefore warrant funding. The 2040 Planning and Development Grants application handbook will address the above nuances and provide adequate clarification for applicants.

ANALYSIS/INFORMATION

1. Known Opposition

It is possible that there may be opposition to the removal of the sunset provision of the CET and establish the 2040 Planning and Development Program as an ongoing program which Metro offers the region to support local planning and development.

The proposed policy and investment framework for Cycle 7 grants set forth in Resolution 18-4916 is similar to the framework set forth in prior grant cycles so opposition is not anticipated.

2. Legal Antecedents

- Metro Ordinance 06-1115 (“2006 CET Ordinance) established the construction excise tax
- Metro Ordinance 09-1220 extended the CET for an additional five year period (through September 2014).
- Metro Ordinance 14-1328 extended the CET for an additional five year period (through December 2020) and directed the Metro COO to propose amendments to the existing administrative rules.
- Metro resolution 15-4595 approved the Metro COO’s proposed amendments to the administrative rules
- Metro resolution 15-4640 directed the Metro COO’s to propose a possible use for unallocated funds in Cycle 4
- Metro resolution 16-4753 awarded approximately \$575,000 in Equitable Housing Planning and Development Grants
- Metro resolution 17-4782 revised administrative rules, the program name, and established annual grant cycles and also set the investment targets for Cycle 5 to promote equitable development
- Metro resolution 17-4846 awarded \$1.99 million in 2040 Planning and Development Grants, of which \$984,000 (49.5%) was awarded to equitable development projects.
- Metro resolution 18-4863 set the investment targets for Cycle 6 to promote equitable development
- Metro resolution 18-4882 approved the Metro COO’s proposed amendments to the administrative rules in order to create a technical assistance program to support the 2040 Planning and Development Grants.
- Metro resolution 18-4902 awarded \$1.99 million in 2040 Planning and Development Grants, of which \$895,000 (45%) was awarded to equitable development projects.

3. Anticipated Effects

Approval of the ordinance will remove the provision that currently require Metro to end collection of the Construction Excise Tax in 2020. With the removal of this provision, collection of the Construction Excise Tax would continue into the future until such time as the Metro Council determines it is no longer necessary or effective. The ordinance will also clarify the types of projects that may apply for exemption from paying the CET, clarify the purpose of the grants, and allow other entities to apply for grants if they are proposing a project in the public interest which has been endorsed by a local government.

Approval of the resolution will continue Metro Council’s policy and investment emphasis for grant funding to support equitable development by earmarking \$1 million of available funds and giving

first consideration to qualified projects inside the UGB with a strong emphasis on serving historically marginalized communities and/or equitable housing.

4. Budget Impacts

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

5. Attachments

None.

RECOMMENDED ACTION

The Chief Operating Officer recommends adoption of the ordinance to amend chapter 7.04 of the Metro Code to remove the sunset provision of the Construction Excise Tax

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