

**Administrative Rules of Metro Code Chapter 7.04
Construction Excise Tax and
2040 Planning and Development Grants**

[Revised May 2023]

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**ADMINISTRATIVE RULES – METRO CODE CHAPTER 7.04
CONSTRUCTION EXCISE TAX AND
2040 PLANNING AND DEVELOPMENT GRANTS
[Revised May 2023]**

Effective July 1, 2006, Metro 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 became 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 their authority in administration and enforcement of the Code chapter and these administrative rules as they determine and as set forth herein.
 2. The COO will appoint a Hearings Officer, which appointment will be confirmed by the Metro Council. The Hearings Officer will 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 COO will 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 will 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 or redevelopment.
- F. Rule Amendment. The COO 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 is 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 will be calculated and assessed as of the application date for the building permit.
 - 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)

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 will 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 people with incomes less than sixty percent (60%) 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 disadvantaged people.
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 will preliminarily authorize the Exemption and will not collect the CET. The building permit issuer will forward the Person's Metro CET Exemption Certificate application to Metro along with the quarterly CET report. It is 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 disadvantaged people, the applicant must provide information that will allow such tax exempt status to be verified, and proof that the property will be restricted to such uses. Proof can be in the form of loan covenants; rental agreements or grant restrictions; certification from the entity's corporate officer attesting that the Exemption is applicable; or any other information that may allow the Exemption determination to be made; and
 - iv. In the case of a limited partnership with a tax-exempt sole general partner corporation, verification from the partnership's attorney of that status is required; and
 - v. Authorization to audit the records to verify the legal status and compliance with Metro qualifications of all entities claiming exempt status.
- e. Partial Applicability of Exemption. If an exemption is applicable to only part of the Construction, then only that portion will be exempt from the CET, and CET will be payable for the remainder of the Construction that is not eligible for an exemption, on a pro-rata basis. It is 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 will preliminarily authorize the partial exemption and will only collect the pro-rata CET as declared by the applicant. The building permit issuer will forward the Person's Metro CET Exemption Certificate application to Metro along with the quarterly CET report. It is 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 (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 (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).
 - 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), 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). Once a total of \$12,000 has been paid in CET for a particular structure, then no additional CET will be collected for that structure during the pendency of the CET program.

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

1. Procedures for obtaining a rebate are:
 - a. Within thirty (30) days of paying the CET, a Person who believes that the CET is not applicable due to a CET Exemption or that Construction is subject to the CET Ceiling may apply for a rebate in writing to Metro and provide verification that the Exemption eligibility provisions of Metro Code Section 7.04.040 apply, or that the CET Ceiling provisions of Metro Code Section 7.04.045 are 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 will 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 will 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 will 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 will 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 will conduct hearings related to enforcement or appeals of the CET. The Tax must be paid prior to filing an appeal. 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. 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 COO or Hearings Officer taken pursuant to the Construction Excise Tax Ordinance, or the rules and regulations adopted by the COO, will 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.

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 apply:

1. CET Reporting; Information Required. Each quarter (unless a local government prefers to report monthly), along with its CET remittance to Metro, the local government will prepare and submit to the Metro COO a report of the CETs and building permits issued for the previous quarter's construction activities. The report will include: the number of building permits issued that quarter; the aggregate value of construction; the number of building permits for which CET exemptions were given; the aggregate value of construction for the exempted construction; the aggregate amount of CET paid; and the amount of CET administrative fee retained by the local government pursuant to this CET Collection IGA. Each quarter, within thirty (30) 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.
2. CET Remittance to Metro. Local governments collecting CETs will remit the CETs to Metro on a quarterly or monthly basis, based on the jurisdiction's CET Collection IGAs with Metro. Remittance will be quarterly, unless a jurisdiction prefers to remit the CET monthly, by the 30th of the month following the quarter (or month) ending. Quarters end on September 30, December 31, March 31 and June 30 of each year. CET remittance and the CET Report will be sent to Metro, attn. Construction Excise Tax Accounting Specialist, 600 NE Grand Ave., Portland, Oregon 97232.
3. Remuneration to Local Government for Collecting CET. As consideration for collecting the CET, each local government collecting the CET will 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 will deduct the remuneration agreed upon directly from the collected tax, and the amounts deducted and retained will 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 will allow the COO, or any person authorized in writing by the COO, 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 will 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 is 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) 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 will be punishable, upon conviction, by a fine of not more than five hundred dollars (\$500). This fine will 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 Categories and Allocation of Funding.

The Metro Council has established the following grant investment categories and the targeted level of CET funding to be allocated annually to each category. Grant cycles may be delayed or funding amounts adjusted if the amount of CET revenue remitted to Metro by local governments is less than projected, or if CET revenue projections are modified due to market conditions, or as necessary for effective administration of the grant program.

1. New Urban Area Planning. The annual funding target for all New Urban Area Planning Grants is approximately \$500,000 to \$1,000,000. These funds are allocated for the planning of new urban areas, which will include both Concept Planning Grants and Comprehensive Planning Grants. Funding for Concept Planning Grants will be available on an annual basis for planning projects in urban reserve areas, and Comprehensive Planning Grant funds will be available to cities in conjunction with a

Metro Council decision to expand the urban growth boundary. Any excess grant funds that are not awarded each year will accrue to the following year and thereby increase the available funds in subsequent grant cycles.

2. Planning and Development within the Urban Growth Boundary. The annual funding target for all planning and development grants for projects within the urban growth boundary is approximately \$2,500,000. In the event that there are insufficient qualified applications within one funding category, grant funds may be awarded for qualified applications in the other category. Any excess grant funds that are not awarded in either category each year will accrue to the reserve fund for additional technical assistance as provided in section “I” below.

B. 2040 Grants Screening Committee.

1. Role. A 2040 Planning and Development Grants Screening Committee (“Committee”) is created, which will review grant requests submitted by local governments and their community partners. The Committee will advise and recommend to the Metro 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 Committee’s primary role will be to make recommendations for Planning and Development Grants within the UGB. However, the Metro COO may also request that the Committee review specific Concept Planning Grant applications and make a recommendation regarding grant awards in that category.
2. Committee Members. The COO will appoint seven to eleven members to the Committee, including the Committee Chair. Committee membership will be reviewed and confirmed each year, 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;
 - Community engagement in public policy related to planning, equity and community livability issues;
 - Environmental sustainability relating to development or redevelopment; and
 - Social equity relating to community development and redevelopment planning.

C. Concept Planning Grants.

Concept planning facilitates the future development of complete communities and supports work by cities and counties to comply with Title 11 of the Urban Growth Management Functional Plan. This type of grant is intended solely for concept planning in urban reserve areas. Proposals will specifically address how they will seek to comply with Title 11. Award of a Concept Planning Grant does not indicate a commitment by Metro to add the urban reserve area to the UGB in the next growth management decision. The Metro COO will direct Metro staff to organize a fair and efficient process for soliciting Concept Planning Grant requests as follows:

1. Grant Cycle and Available Funding. Concept Planning Grant applications from local jurisdictions will be reviewed on an annual basis. Up to \$500,000 may be allocated each year for New Urban Area Planning Grants and may be used to fund grants to local jurisdictions for concept planning.
2. Eligible Grant Applicants. Grant applicants may be cities or counties within the Metro boundary that have urban reserves within their jurisdiction. Each eligible local government may submit one Concept Planning Grant request per grant cycle.
3. Amount of Awards and Eligible Expenses. Grant requests and awards of up to \$250,000 are typical for Concept Planning Grants, unless a larger amount is warranted due to the size or complexity of area to be planned. Consultant costs and other direct project expenses are eligible for reimbursement with grant funds. The city or county must fully fund staff resources for the project as a required grant match. Grant funds may be utilized to support involvement of a community-based organization or a community liaison to facilitate engagement of historically marginalized communities in the planning process.
4. General Grant Requirements. Projects must develop a concept plan that is compliant with Functional Plan Title 11. Projects may include planning for a range of land uses, necessary infrastructure services and associated cost estimates, and proposed methods to finance the systems and services. Projects must include a robust community engagement strategy demonstrating best practices for advancing racial equity and involving historically marginalized communities in the planning process.
5. 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 preparation and submittal of required application materials. Applicants will also have the option to obtain feedback from Metro staff regarding their proposed projects prior to submission of the final application.
6. Application Commitments and Grantee Contributions. Applications should reflect commitment by the applicant and key project partners to participate in the planning effort. All grant requests must include a resolution of support by the governing body. The resolution will explicitly confirm the availability of adequate staff resources to successfully implement the proposed project. The resolution will also outline any

additional financial contributions the applicant and project partners have committed to the project.

7. Evaluation Criteria. Proposed projects must meet the requirements of Metro Code Section 3.07.1110 while considering activities to achieve a range of housing types, tenure and prices and employment opportunities, served by a well-connected multi-modal transportation system, parks and recreation opportunities. Projects should help realize community plans and goals and may maximize existing community assets such as parks, natural features or nearby employment areas. Projects will utilize best practices for public involvement including strategies for meaningfully engaging neighbors, businesses, property owners, key stakeholders and historically marginalized communities, including people with lower incomes and communities of color.
8. Review of Grant Request. Applications for Concept Planning Grants will be reviewed by Metro Planning and Development Staff, who will make a funding recommendation to the Metro COO. The Metro COO will make a recommendation to the Metro Council. The Metro Council will decide, in a public hearing, whether or not to approve funding of any grants, and the amount of each grant. In the event that a high number of applications for Concept Planning Grants create an unusually competitive grant cycle, the Metro COO may refer the applications to the Grant Screening Committee and request a funding recommendation from the Committee.

D. Comprehensive Planning Grants.

Comprehensive planning by local cities is required to comply with Title 11 of the Urban Growth Management Functional Plan. This type of grant is intended solely for comprehensive planning of areas recently brought within the UGB. Proposals will specifically address how they will seek to comply with Title 11. The Metro COO will direct the staff to organize a fair and efficient process for soliciting comprehensive planning grant requests as follows:

1. Grant Cycle and Available Funding. Comprehensive Planning Grant proposals from cities will be considered every six years, in conjunction with the Metro Council's urban growth management decision process under ORS 197.299. Approximately \$500,000 to \$750,000 may be allocated each year for New Urban Area Planning Grants and it is envisioned that approximately \$2-3 million will typically be available for Comprehensive Planning Grants during the years in which an urban growth management decision is under consideration. Grant funds will also be available in the event the Metro Council elects to consider and approve a mid-cycle amendment to the UGB under Metro Code section 3.07.1427. The actual level of funding available will depend on the number of concept planning grants awarded in prior grant cycles.
2. Eligible Grant Applicants. Grant applicants may be cities within the Metro boundary that are seeking Metro Council approval to bring lands designated as Urban Reserves into the UGB. Cities are limited to one comprehensive planning grant proposal per urban growth management decision cycle.

3. Amount of Awards and Eligible Expenses. Grant requests and awards of up to \$350,000 are typical for Comprehensive Planning Grants, unless a larger amount is warranted due to the size or complexity of area to be planned. Consultant costs and other direct project expenses are eligible for reimbursement with grant funds. The city or county must fully fund staff resources for the project as a required grant match. Grant funds may be utilized to support involvement of a community-based organization or a community liaison to facilitate engagement of historically marginalized communities in the planning process.
4. General Grant Requirements. Projects develop a comprehensive plan that is guided by the adopted concept plan and is compliant with Functional Plan Title 11. Projects may include adopting comprehensive plan and zone designations and provisions for annexation to a city and any necessary service districts. Projects must include a robust community engagement strategy demonstrating best practices for advancing racial equity and involving historically marginalized communities in the planning process.
5. Application Guidelines and Timelines. Proposals will be submitted and reviewed as part of the urban growth management decision cycle. The guidelines and timeline for submitting grant proposals will be publicized with sufficient time to provide eligible applicants with adequate time for planning, budgeting, preparation, and submittal of proposals.
6. Application Commitments and Grantee Contributions. Applications should reflect commitment by the applicant and key project partners to participate in the planning effort. All grant requests must include a resolution of support by the governing body. The resolution will explicitly confirm the availability of adequate staff resources to successfully implement the proposed project. The resolution will also outline any additional financial contributions the applicant and project partners have committed to the project.
7. Evaluation Criteria. Proposed projects must meet the requirements of Metro Code Section 3.07.1120 while identifying specific plan designation boundaries that ensure zoned capacity for expected number and types of housing units, needed public school and park facilities and provisions for financing public facilities and services. Projects must accommodate expected population and employment growth. Projects will utilize best practices for public involvement including strategies for meaningfully engaging neighbors, businesses, property owners, key stakeholders, and historically marginalized communities, including people with lower incomes and communities of color.
8. Review of Grant Request. Proposals for Comprehensive Planning Grants will be reviewed by Metro Planning and Development Staff, who will make a funding recommendation to the Metro COO. The Metro COO will make a recommendation to the Metro Council. The Metro Council will approve final grant awards as part of its urban growth management decision.

E. Equitable Development Grants.

Equitable Development Grants are significant, multi-year grants that fund pre-development work, community plans, projects or strategies that implement the 2040 Growth Concept and create more equitable communities. Projects will spur implementation of the communities envisioned by the 2040 Growth Concept while advancing specific equity-focused projects, programs or strategies that improve opportunities and quality of life for people of color and historically marginalized communities. The Metro COO will direct the staff to organize a fair and efficient process for soliciting Equitable Development Grant requests as follows:

1. Grant Cycles and Available Funding. Equitable Development Grant applications from local jurisdictions and their community partners will be reviewed on an annual basis. Approximately \$1.25 million may be allocated for new Equitable Development grants each year.
2. Eligible Grant Applicants. Grant applicants must be project teams that include at least one city or county within the Metro boundary and at least one community partner. Community Partners may be non-profit or private organizations or individual landowners. Other local governments, as defined in ORS 174.116, may also apply for grants, provided that they are partnered with a city or county government and at least one community partner. Most local governments may submit only one grant request per grant cycle; however, the City of Portland will be allowed to submit up to three applications per cycle, and the cities of Hillsboro, Gresham, and Beaverton, and Washington and Clackamas Counties will each be allowed to submit up to two applications per cycle.
3. Amount of Awards and Eligible Expenses. Grant requests and awards should range between \$250,000 and \$750,000 for a multi-year project. Grant funds may cover technical consultant work and direct project expenses for project planning, program development or implementation. Governments must fully fund staff resources for the project as a required grant match. Staff time for community partners is eligible for grant funding.
4. General Grant Requirements. Projects may be site-specific development or redevelopment projects, facilities, or temporary uses located in a Regional Center, Town Center or neighborhood center, main street, corridor, station area or employment area. Projects may include area-specific community development plans, creation of funding tools, or economic development strategies that help local cities and counties and their partners build more equitable communities and create pathways to prosperity. Applications must not only demonstrate how historically marginalized communities and people of color will be engaged in the planning process but also how implementation of the project, strategy or program will specifically benefit these populations.
5. 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 development of partnerships, project planning and

submittal of required application materials. Metro will host a pre-application session for all interested parties.

6. Application Commitments and Grantee Contributions. Applications should reflect commitment by the applicant and key project partners to participate in the planning effort. All grant requests must include a letter signed by the governing body (executed by both elected leaders and administrators) confirming support for the effort and their intent to fully fund staff resources for the project. Letters of support from community partners must also be included, confirming their pledge of any contributions and the nature of their involvement in the project.
7. Evaluation Criteria. Applications will be evaluated on the extent to which the project partners present a compelling project concept with specific, achievable, and impactful outcomes. Projects must help to facilitate or implement community development plans and projects that are aligned with the region's 2040 Growth Concept and that will meaningfully advance racial equity and deliver benefits to historically marginalized communities. Exemplary projects will deliver equitable planning and development outcomes using thoughtful, focused strategies to ensure that the benefits of community investments are delivered to marginalized populations with the greatest needs. Reviewers will also consider the extent to which the project partners have the capacity and authority to implement actions/investments as needed to successfully bring the project to fruition.
8. Review of Grant Request. Metro staff will review all proposals and submit comments to the 2040 Grant Screening Committee. The Committee will review the applications and staff comments and will select a pool of the strongest applicants to be invited to make a presentation. Following the presentations/interview with the Committee, the Committee will recommend finalists for full scoping to the Metro COO. The Metro COO will make a recommendation to Metro Council. The Metro Council will endorse finalists in a Council work session. Metro staff will work with finalists to refine project concept, more fully develop scopes, define budgets, etc. Screening Committee members may review and suggest revisions as appropriate. The Metro Council will decide, in a public hearing, whether or not to approve funding of any grants, and the amount of each grant.

F. Community Engagement Grants

Community Engagement Grants are shorter-term grants of \$50,000-\$100,000 to help city and county governments meaningfully involve diverse community members (particularly communities of color and historically marginalized populations) in planning and development decisions that help to implement the 2040 Growth Concept. The grants expand access to opportunities, influence and decision-making in public planning processes throughout the region and help to ensure that the perspective of communities of color is more fully represented in local and regional planning decisions. These grants assist local governments in establishing lasting relationships and collaborative partnerships with a broad range of community-based organizations. The Metro COO will direct the staff to

organize a fair and efficient process for soliciting Community Engagement Grant requests as follows:

1. Grant Cycles and Available Funding. Community Engagement Grant applications from local jurisdictions will be reviewed on an annual basis. Approximately \$250,000 may be allocated for Community Engagement Grants each year.
2. Eligible Grant Applicants. Community-based organizations (CBOs) and local governments may apply in partnership. Local governments may also apply without a designated community partner if they are seeking to hire a community liaison for a specific project. Community liaisons must be people of color or represent a historically marginalized community. They may have planning or development expertise or may bring other relevant life experience or perspective. If CBOs and local governments apply in partnership, at least one CBO must have significant program experience and demonstrated success serving historically marginalized communities and people of color. Most local governments may submit only one grant request per grant cycle; however, the City of Portland will be allowed to submit up to three applications per cycle. The cities of Hillsboro, Gresham, and Beaverton, and Washington and Clackamas Counties will each be allowed to submit up to two applications.
3. Amount of Awards and Eligible Expenses. Grant requests and awards should range between \$50,000 and \$100,000 per project. Governments must fully fund staff resources for the project as a required grant match as well as the work of any technical consultants. Staff time for community partners is eligible for grant funding, in order to support the involvement of CBOs in a consulting role to the city or county, for community organizing, project development, project implementation or advocacy related to the planning project. Grant funds may also be used to cover a stipend if the government applicant seeks to hire a short-term community liaison to assist with an issue, project or body of work. Grant funds may also be used to cover direct expenses for community engagement.
4. General Grant Requirements. Grant funds help to support collaboration with CBOs around a particular process or issue, or temporarily hiring a community member to serve as a liaison and provide input into the engagement plan, technical work, and public decision-making processes. Involvement of CBOs in a consulting role to the city or county may be for community engagement, community organizing, project development, project implementation or advocacy related to the planning project. Relevant planning processes may include:
 - Regional and town or neighborhood center plans
 - Main street and corridor planning
 - Employment area plans and strategies
 - Plans and strategies for equitable housing
 - Code and policy work to align with 2040 vision or HB 2001 (2019)

5. 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 development of partnerships, project planning and submittal of required application materials. Metro will host a pre-application session for all interested parties.
6. Application Commitments and Grantee Contributions. Applications should reflect commitment by the applicant and key project partners to participate in the planning effort. All grant requests must include a letter signed by the governing body (executed by both elected leaders and administrators) confirming support for the effort and their intent to fully fund staff resources and technical/planning consultants for the project. If a community-based organization is designated as a partner in the application, a letter of support from the organization's executive must be included, confirming their intent to collaborate on the project.
7. Evaluation Criteria. Grant applications will be evaluated based on how well the proposed activities, partnership(s) and/or community liaison will help the local government meaningfully engage historically marginalized communities including low income individuals and communities of color. Factors to be considered include the extent to which the project approach will provide communities of color true access and a voice in decision-making processes, and how public input will be incorporated so as to truly determine and strengthen community planning and development outcomes.
8. Review of Grant Request. Metro staff will review all proposals and submit comments to the 2040 Grant Screening Committee. The Committee will review the applications and staff comments and will select a pool of the strongest applicants to be invited to make a presentation. Following the presentations/interview with the Committee, the Committee will recommend finalists for full scoping to the Metro COO. The Metro COO will make a recommendation to Metro Council. The Metro Council will endorse finalists in a Council work session. Metro staff will work with finalists to refine project concept, more fully develop scopes, define budgets, etc. Screening Committee members may review and suggest revisions as appropriate. The Metro Council will decide, in a public hearing, whether or not to approve funding of any grants, and the amount of each grant.

G. Industrial Land Readiness Grants

Industrial Land Readiness grants will fund work with city and county partners to advance industrial site readiness through site-specific, industry-specific, or obstacle-specific planning efforts. Industrial land readiness means the subject land has the regulatory structure, utilities, and transportation infrastructure planned or in place to facilitate development of industrial uses. The Metro COO will direct Metro staff to organize a fair and efficient process for soliciting Industrial Land Readiness grant requests as follows:

1. Grant Cycles and Available Funding. Industrial Land Readiness grant applications from local jurisdictions will be reviewed each grant cycle. Approximately \$1,000,000 may be allocated for new Industrial Land Readiness grants.
2. Eligible Grant Applicants. Grant applicants must be a city or county within the Metro boundary. Applicant teams may also include community partners and other local governments (as defined in ORS 174.116). Community partners may be non-profit organizations or individual landowners.
3. Amount of Awards and Eligible Expenses. Grant requests and awards are anticipated to range between \$100,000 and \$500,000. Grant funds may cover technical consultant work and direct project expenses for project planning, program development or implementation. Governments must fully fund staff resources for the project as a required grant match. Staff time for non-profit community partners, if applicable, may be eligible for grant funding.
4. General Grant Parameters. Grant projects must produce land readiness strategies focused on a particular site or area, a particular industry in which the local jurisdiction has a competitive advantage, or a particular obstacle to development faced by multiple industrial sites in the jurisdiction, including the identification of related costs and any financial gaps for implementation. It is anticipated that grant projects will focus on land located in a designated Employment Area per the 2040 Growth Concept Map.

Additionally, grant projects must engage with communities most impacted by the development of any site and incorporate community perspectives into plans and strategies.

5. Application Guidelines and Timelines. The guidelines and timeline for submitting grant applications will be publicized each grant cycle with sufficient time to provide eligible applicants with adequate time for development of partnerships, project planning, and submittal of required application materials.
6. Application Commitments and Grantee Contributions. Applications should reflect commitment by the applicant and any key project partners to participate in the planning effort. All grant requests must include a letter signed by the governing body (executed by both elected leaders and administrators) confirming support for the effort and their intent to fully fund staff resources for the planning project and anticipated implementation for industrial land readiness. Letters of support from any community partners must also be included, confirming their pledge of any contributions and the nature of their involvement in the project.
7. Evaluation Criteria. Applications will be evaluated on the extent to which the project team presents a compelling project concept with specific, achievable, and impactful outcomes. Metro may choose to prioritize applications that most closely align with competitive industry clusters identified in the region's Comprehensive Economic Development Strategy. Grantees are also encouraged to incorporate equity into their

planning. Grant application reviewers will also consider the extent to which the project partners have the capacity and authority to implement actions/investments as needed to successfully bring the project to fruition.

8. Review of Grant Request. Metro staff will review all proposals and submit comments to the 2040 Grant Screening Committee. The Committee will review the applications and staff comments and will select a pool of the strongest applicants to be invited to interview with the Committee. After interviews occur, the Committee will recommend finalists for full scoping to the Metro COO. The Metro COO will make a recommendation to Metro Council. The Metro Council will endorse finalists in a Council work session. Metro staff will work with finalists to refine project concepts, more fully develop scopes, define budgets, etc. Screening Committee members may review and suggest revisions as appropriate. The Metro Council will decide, in a public meeting, whether to approve funding of any grants, and the amount of each grant.

H. Economic Development and Community Stabilization.

This category will be defined in a future update of the Administrative Rules.

I. General Procedures for Entering into Grant Agreements.

1. Notification of Grant Award. Upon the award of a grant, the Program Manager will issue a notification to the Grantee specifying the grant amount determined by the Metro Council as well as any conditions placed on the grant award.
2. Negotiation of Grant Agreements. Metro and the Grantee will negotiate the terms of the Grant Agreement or Intergovernmental Agreement (“Agreement”). The scope of work in the grant application as modified by any condition in Metro Council grant award will be the basis for Metro and the grantee to negotiate the Agreement. The Agreement will set forth the role of Metro’s project manager or other staff on any project committees, an agreed-upon scope of work and budget, a draft request for proposals for any consultants needed to implement the project, matching funds and grant payment amounts, and any administrative penalties that may be imposed by Metro for amendments to the Agreement or project timeline that may be requested by the applicant. The Agreement will retain the right of the Metro COO to terminate a grant award if the milestones set forth in the Agreement are not met within the specified timeframes.
3. Approval of Grant Agreements. The governing body of the grant applicant jurisdiction must authorize the approval of the Agreement. In the event that a private organization on the grantee’s team will serve as the fiscal partner for a grant, approval must be made by an authorized party for the organization. Following execution of the Agreement by appropriate personnel on behalf of the grantee, the COO will execute the Agreement. If the Agreement has not been finalized and signed by Metro and grantee within six months of grant award, the COO may exercise the authority to cancel the grant award.

4. Procurement of Project Consultants. Grantee will work with Metro to select an appropriate consultant team as needed to complete all proposed work outlined in the grant application. Prior to execution of the Grant Agreement, Metro will have the opportunity to review and approve any requests for proposals to be issued by the Grantee. Metro will be involved as an equal partner in the selection of all project consultants.
5. Contracting with Project Consultants. Following final selection of project consultants, Grantee will prepare draft contracts with all consultants that fully describe the project milestones, deliverables and timelines and provide maximum costs for consultant tasks. Metro will have the opportunity to review and approve draft contracts with consultants who will perform work prior to the execution of such contracts.
6. Revision of Agreement Schedule of Milestones. Once the contract terms, including required milestones, timelines, deliverables, and payments have been fully negotiated and agreed, the Agreement schedule of milestones will be updated to fully reflect the final project approach and will be incorporated into an amended Agreement and also as an exhibit to any consultant contracts.

J. General Procedures for Distribution of Grant Funds.

1. Grant Payments. Grant payments will be made upon the completion of those milestones set forth in the Agreement, as determined by Metro in accordance with the requirements of the Metro Code and the Agreement. In general, a portion of the Grant funds may be distributed following execution of the Agreement by Metro, with the remainder of the Grant being paid out as progress payments upon completion of the milestones in the Agreement. Grantees will submit progress reports to Metro documenting the milestone and the completed deliverables for grant payment.
2. Eligible Grant Expenses. The following expenses will be considered eligible expenses for reimbursement with grant funds:
 - Materials and services directly related to project
 - Consultants' work and expenses on project
 - Staff time for community partners or community organizations
3. Ineligible Grant Expenses. The following expenses will NOT be considered eligible expenses for reimbursement with grant funds:
 - Government staff time related to project
 - Expenses for planning work contracted for or initiated prior to execution of an approved Grant Agreement is not eligible for reimbursement unless such expenses are expressly referenced in the Agreement or amendments thereto.

K. Additional Technical Assistance

1. Technical Assistance Reserve Fund. At the discretion of the Metro COO, grant funds that are allocated but are not ultimately used for approved grants may be reserved as a separate fund designated for additional technical assistance to grantees. These may include grant funds targeted for Grants within the Urban Growth Boundary that are not awarded in a prior grant cycle, or funds for any grant that is subsequently declined by the grantee, canceled by Metro, or that are not expended due to grant costs being less than projected. The COO will determine an appropriate amount of funds to maintain in this reserve account in order to meet anticipated technical assistance needs of grantees.
2. Award of Additional Technical Assistance. Metro staff will make a recommendation to the Planning and Development Director and the COO when it appears that a particular project requires additional technical assistance funding in order to successfully achieve the intent of the grant award and implement the proposed project. The COO will have discretion to approve additional funds for the project, up to a cap of \$25,000 per project.
3. Contracting for Additional Technical Assistance. At the discretion of the COO, additional technical assistance funds may either be disbursed to the Grantee or may be used by Metro to enter into a service contract with appropriate firm or firms to provide the assistance needed. Metro will identify and contract with professional consultants as needed to provide the necessary assistance and oversight to ensure successful implementation of the project.

Attachment: Metro Code Chapter 7.04