

RESOLUTION NO. 1832

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH METRO TO COLLECT AND REMIT THE METRO CONSTRUCTION EXCISE TAX.

THE TROUTDALE CITY COUNCIL FINDS AS FOLLOWS:

1. The Metro Council adopted Resolution No. 05-3626A on October 13, 2005 establishing a tax study committee comprised of representatives from local jurisdictions and the development community to provide recommendations for funding comprehensive planning needs associated with recent inclusions into the urban growth boundary, and the tax study committee recommended that a short-term construction excise tax on building permit values was the appropriate funding mechanism.
2. The tax study committee recommendation's were forwarded to the Metro Planning Advisor Committee (MPAC), and on March 8, 2006 MPAC recommended approval of the tax study committee's proposal that Metro adopt a construction excise tax that would be implemented by local jurisdictions to fund comprehensive planning needs associated with new inclusions into the urban growth boundary.
3. The Metro Council adopted Ordinance No. 06-1115, establishing a Construction Excise Tax (CET) throughout the Metro regional jurisdictions on March 23, 2006. The ordinance provides that the CET may be collected by local jurisdictions and remitted to Metro pursuant to Intergovernmental Agreements, and that Metro will distribute up-front grants to local jurisdictions, based on grant requests that set forth the expected completion of certain milestones associated with Title 11 of Metro Code Chapter 3.07, the Urban Growth Management Functional Plan.
4. Troutdale and Metro are authorized by ORS 190.003-190.110 and other pertinent statues to enter into Intergovernmental Agreements for collection and remittance of the Metro Construction Excise Tax.

NOW, THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TROUTDALE

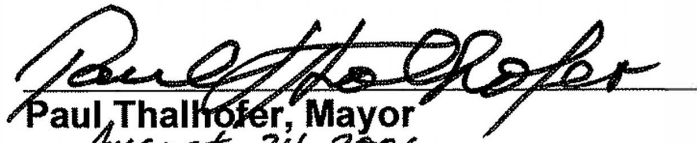
- Section 1. The City agrees to collect and remit the Metro Construction Excise Tax and the Mayor is authorized to sign the attached Intergovernmental Agreement with Metro (Attachment A).

Section 2. This resolution shall take effect immediately upon adoption.

YEAS: 4

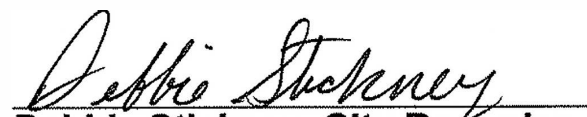
NAYS: 3 Ripma, Canfield, and Kyle

ABSTAINED: 0



Paul Thalhofer, Mayor
August 24, 2006

Date



Debbie Stickney, City Recorder
Adopted: August 22, 2006

**CONSTRUCTION EXCISE TAX
INTERGOVERNMENTAL AGREEMENT
TO COLLECT AND REMIT TAX BETWEEN
METRO AND THE CITY OF TROUTDALE**

This Construction Excise Tax Intergovernmental Agreement to Collect and Remit Tax ("CET Collection IGA") is by and between Metro, a metropolitan service district organized under the laws of the state of Oregon and the Metro Charter, located at 600 Northeast Grand Avenue, Portland, OR, 97232-2736 ("Metro"), and the City of Troutdale ("Jurisdiction" or "City of Troutdale"), located at 104 SE Kibling Avenue, Troutdale, OR 97060, collectively referred to as "Parties."

WHEREAS, in October 2005 Metro convened a tax study committee comprised of representatives from local jurisdictions and the development community, to provide recommendations for funding comprehensive planning needs associated with recent inclusions into the urban growth boundary; and that tax study committee recommended that a short-term construction excise tax on building permit values was the appropriate funding mechanism; and

WHEREAS, the tax study committee's recommendation was forwarded to the Metro Policy Advisory Committee ("MPAC"), and on March 8, 2006 MPAC recommended approval of the tax study committee's proposal that Metro adopt a construction excise tax that would be implemented by local jurisdictions to fund comprehensive planning needs associated with new inclusions into the urban growth boundary; and

WHEREAS, on March 23, 2006 Metro adopted Ordinance No. 06-1115, establishing a Construction Excise Tax ("CET") throughout the Metro regional jurisdiction; and

WHEREAS, the ordinance provides that the Construction Excise Tax may be collected by local jurisdictions and remitted to Metro pursuant to Intergovernmental Agreements, and that Metro will distribute up-front grants to local jurisdictions, based on grant requests that set forth the expected completion of certain milestones associated with Title 11 of Metro Code Chapter 3.07, the Urban Growth Management Functional Plan; and

WHEREAS, the Construction Excise Tax established by Ordinance No. 06-1115 will expire when the total amount collected by all jurisdictions and remitted to Metro and certified by Metro as such is \$6.3 million dollars, which is estimated to take approximately three years; and

WHEREAS, the Parties desire to agree to certain procedures needed to collect the Construction Excise Tax and remit the tax to Metro.

NOW THEREFORE, the Parties hereto agree as follows:

1. Information and Forms. Metro shall provide to the Jurisdiction information, forms, and assistance explaining the Construction Excise Tax.
2. Staffing. Jurisdiction shall provide sufficient staff to calculate and collect the Construction Excise Tax along with the collection of other permit fees. Metro shall provide sufficient staff to implement the CET program including grant distribution.

3. Collection; Start date. Jurisdiction agrees to collect the Construction Excise Tax on behalf of Metro. Jurisdiction shall begin collecting the CET on September 1, 2006, and shall continue collection until the earlier of expiration of the CET or termination of this CET Collection IGA as set forth below.

4. Exemptions. Metro shall also provide Jurisdiction with forms for CET exemptions, rebates, and refunds, and any other forms or information necessary for implementation of the CET. If a Person claims to be exempt from the CET and files a Metro CET Exemption Form at the time the CET would otherwise be due, Jurisdiction shall grant the exemption. 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.

5. Remittance. Jurisdiction shall remit the collected CET to Metro. Remittance shall 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 shall be sent to Metro, attn Construction Excise Tax Accounting Specialist, 600 NE Grand, Portland, Oregon 97232. Notwithstanding the foregoing, however, the City of Troutdale will not be liable for any shortages in the tax that Troutdale collects and remits, except if the shortage is due to Troutdale's negligent or willful acts or omissions.

6. CET Reports. Along with the CET remittance, Jurisdiction 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 construction for the exempted construction; the aggregate amount of CET paid; and the amount of CET administrative fee retained by Jurisdiction pursuant to this CET Collection IGA.

7. Failure to Pay CET. Upon a Person's refusal to or failure to pay the CET when due, the jurisdiction 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, Construction Project, Value of New Construction, 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.

8. Records. Jurisdiction shall make all records related to building permit activity, Construction Excise Tax collections, and CET exemptions available to Metro, or its designated auditors, as necessary for Metro to audit Construction Excise Tax collections.

9. Administrative Fee. As consideration for the above described services, Jurisdiction shall retain Five Percent (5%) of the CET collected by the Jurisdiction. Prior to submitting the CET to Metro, Jurisdiction shall deduct this administrative fee directly from the CET collected, and the amounts deducted and retained shall be identified on the report submitted to Metro.

10. Sunset. Jurisdiction shall cease collection of the Construction Excise Tax pursuant to this CET Collection IGA on the last day of the month in which Metro certifies to Jurisdiction that a total of \$6.3 million has been collected by the Metro-area local jurisdictions and

has been remitted to and received by Metro. CET already collected by Jurisdiction in the CET reporting period in which it receives Metro's written certification notice shall be remitted to Metro, and shall remain a part of the CET program and shall be distributed by Metro to local jurisdictions in accordance with the CET grant program. Notwithstanding the foregoing, however, the City of Troutdale may terminate this Agreement by providing Metro with written notice of termination at least thirty (30) days prior to the last date that Troutdale will collect the CET. In the case of such early termination, the City of Troutdale shall remit to Metro all CET collected by the City prior to the effective date of the termination, net of the administrative fee as set forth above.

11. Amendment. This CET Collection IGA may be amended by mutual written agreement of the Parties.

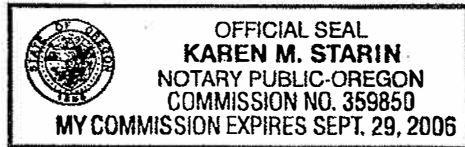
12. Other Agreements. This CET Collection IGA does not affect or alter any other agreements between Metro and Jurisdiction.

13. Use of Funds. The CET remitted to Metro by the City of Troutdale shall be spent to fund regional and local planning that is required to make land ready for development after inclusion in the Urban Growth Boundary.

Metro
By: Michael Jordan
Title: Metro Chief Operating Officer
Date: 8/29/06

City of Troutdale
By: Paul J. Theobald
Title: Mayor
Date: 8/24/06

State of Oregon)
County of Multnomah)
ss.



On this 29th day of August, 2006, before me Karen M. Starin, the undersigned Notary Public, personally appeared Michael Jordan, as Chief Operating Officer of Metro, a municipal corporation, personally known to me (or proved to be on the basis of satisfactory evidence) to be the person whose name is subscribed to this instrument, and acknowledged that he executed it.

Karen M. Starin
My commission expires: 9-29-06

State of Oregon)
County of Multnomah)
ss.

On this 24th day of August, 2006, before me Sarah Skroch, the undersigned Notary Public, personally appeared Paul Thalhofer as Mayor of Troutdale jurisdiction, personally known to me (or proved to be on the basis of satisfactory evidence) to be the person whose name is subscribed to this instrument, and acknowledged that he ~~(she or they)~~ executed it.

Sarah Skroch
My commission expires: August 7, 2007



ADMINISTRATIVE RULES: METRO CODE CHAPTER 7.04

Effective July 1, 2006, Metro has established as Metro Code Chapter 7.04 a Construction Excise Tax ("CET"). 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. 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.
- 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.

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 50 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 50 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
 - 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.

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 5% administrative fee already retained by the building permit issuer.

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 5% administrative fee already retained by the building permit issuer.
 - 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 the last day of the month in which a total of \$6.3 million has been collected under Metro Code Chapter 7.04, received by Metro, and certified as received by Metro to the local collecting jurisdictions.
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 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 and for the calculation of when the \$6.3 million CET has been reached.
4. The CET shall cease to be imposed by local governments on the last day of the month in which Metro issues written notice certifying that the previous quarter's CET remittance to Metro has caused Metro to receive a cumulative total of at least \$6.3 million in CET. CET already collected by local governments in the quarter that they receive Metro's written certification notice shall be remitted to Metro and shall remain a part of the CET program and shall be distributed to local jurisdictions in accordance with the Grant program as set forth herein. Any additional CET received by Metro in the quarter that the \$6.3 million has been certified as received shall also remain a part of the CET program and shall be distributed to local jurisdictions in accordance with the Grant program as set forth herein.

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 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 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 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. 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.
 5. 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 \$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). The Chief Operating Officer shall distribute the revenues and expected revenues from the CET as Grants to local governments based on an analysis of Grant Request(s) submitted by a local government, in accordance with the procedures set forth below.

A. Procedures for Distribution.

1. Step One: Pre-Grant-Request Meeting. Prior to making a written request to Metro for CET grant funds, each local government that anticipates requesting CET Grant funds shall schedule a pre-Grant Request meeting with Metro. In order to receive CET Grant funding, pre-Grant-Request Meetings shall be scheduled with Metro within three (3) months of the effective date of the CET program, i.e., by October 1, 2006, unless a different date is mutually agreed upon by Metro and the local government. The purpose of the pre-Grant Request meeting is to discuss the local government's estimated scope of work and budget for planning needs for their 2002, 2004, and 2005 new urban areas, based on the requirements set forth in the Construction Excise Tax ordinance; Chapter 3.07 of the Metro Code, including Title 11, the Urban Growth Management Functional Plan ("Functional Plan"); the applicable conditions of addition for the new urban area from the Metro ordinance bringing the area into the UGB; these administrative rules; and the budget estimates provided to Metro by the local government prior to enactment of the Construction Excise Tax ordinance.
2. Step Two: Grant Request. After the pre-application meeting, local governments seeking distribution of CET expected revenues shall submit a written Grant Request to the Metro Chief Operating Officer.
 - a. Reimbursement Requests. Grant Requests to reimburse local governments for comprehensive plans already completed for new urban areas that were added to the UGB in 2002, 2004, or 2005 shall also be considered. Such requests shall follow the same procedures as those set forth herein for other CET Grant Requests
3. Proposed Scope of Work, Milestones, and Budget. The Grant Request should include a proposed scope of work and budget, setting forth the expected completion dates and costs for the following milestones:

- a. Local government staff's proposed Concept Plan, if one is to be developed for the new urban area;
 - b. Urban Growth Diagram, showing at least those elements set forth in Title 11, Metro Code Section 3.07.1120(J);
 - c. Local government staff's recommended Comprehensive Plan or Comprehensive Plan amendment, addressing the components set forth in Title 11, Metro Code Sections 3.07.1120 and 3.07.1130; the applicable conditions of addition for the new urban area from the Metro ordinance bringing the area into the UGB; and applicable state laws and regulations; and
 - d. Local government's adoption of Comprehensive Plan or Comprehensive Plan amendment, consistent with the Functional Plan, the Metro ordinance conditions of addition for the new urban area, and applicable state law.
4. **Step Three: Grant Agreement ("Grant IGA").** The Metro Chief Operating Officer shall analyze the local government's Grant Request and the factors set forth herein, as well as those cost estimates previously provided by the local governments. Based on that analysis, Metro and the local government shall enter into a Grant Agreement ("Grant IGA") or, at the local government's request, the Metro Chief Operating Officer shall issue a Grant Letter, that shall set forth an agreed-upon scope of work and budget, expected milestone completion dates, and Grant payment dates.
5. **Grant Payment Dates.** Grant payments shall be made upon the completion of those milestones set forth in the Grant Agreements, as determined by Metro in accordance with the requirements of the Metro Code and the Grant Agreement. In general, a portion of the Grant funds shall be distributed upon execution of a Grant Agreement with Metro, with the remainder of the Grant being paid out as progress payments upon completion of the milestones set forth in section IV.A. 3 above and in the Grant Agreement.

B. Eligible Expenses.

1. The following expenses shall be considered Eligible Expenses for CET Grant consideration:
 - a. Materials directly related to project;
 - b. Consultants' work on project;
 - c. Local government staff support directly related to project; and

- d. Overhead directly attributable to project;
2. If the total Grant Requests from participating local governments exceed the total CET expected revenues, Metro shall first consider awarding funds for eligible direct costs, which will have priority for funding over indirect costs.