CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS
Sitting as the Housing Authority Board
Policy Session Worksheet

Presentation Date: 6/8/21 **Approx. Start Time: 3:00pm** **Approx. Length:** 1 hour

Presentation Title: Supportive Housing Services - funding

Department: Health, Housing and Human Services (H3S)/
Housing Authority of Clackamas County (HACC)

Presenters: Gary Schmidt, County Administrator
Rod Cook, Interim Director H3S
Jill Smith, Director of Housing and Housing Services for Clackamas County & Executive Director of HACC

Other Invitees:

WHAT ACTION ARE YOU REQUESTING FROM THE BOARD?
Determine what action, if any, should be taken to maintain supportive housing services until the Metro SHS measure funding is received (estimated in May 2022).

EXECUTIVE SUMMARY:

On May 18, Metro CFO, Brian Kennedy notified Clackamas County of a delay in anticipated tax receipts from the Supportive Housing Services tax. Due to this delay H3S staff have identified that there are potentially 5 programs at risk of being defunded or discontinued unless additional dollars are secured. They are:

ESG Rapid Rehousing Program for 50 households
The Rapid Rehousing Program, which is federally funded through ESG-COVID funds, is a new model to transition households staying in non-congregate hotel/motel shelters to permanent housing.

Metro 300* for 104 households
Kaiser Permanente set a goal to help house 300 Portland metro area seniors in 2020. Originally allocated 80 vouchers, partner agencies have been so effective at ending homelessness from program participants that HACC was awarded additional vouchers. HACC have 104 formerly homeless participants housed through this program. The funding lasts for only one year after the lease is up and these funds will end August 2021.

Hotel Model for 143 households
This non-congregate hotel/motel model of immediate shelter emerged due to the unique challenges for congregate shelters during the pandemic. In partnership with Greater Good Northwest and the Father's Heart, this model was highly effective in immediately sheltering our most vulnerable neighbors. Partnering with Metro 300 and ESG-COVID Rapid Rehousing, this program has quickly moved many of the chronically homeless individuals into permanent housing. Funding for these services has been provided from state and federal sources. The winter shelter program, as currently funded, can only remain operational until June 30, 2021.

Serenity House & Haven House (Corrections Program) for 19 beds
These two gender specific houses run by Community Corrections, in partnership with Bridges to Change, provide transitional supportive housing for 11 men and 8 women with severe and persistent mental illness who are homeless or at risk of homelessness as they exit incarceration. Serenity and Haven Houses lost funding in FY19-20. H3S has used a patchwork of funding sources to keep them minimally funded through FY20-21. There is currently no source of funding allocated for these programs for FY 21-22.

Veterans Village for 19 beds
The Veterans Village is a tiny house transitional shelter program with 19 pods serving veterans experiencing homelessness. The program assists them in stabilization in order to transition to more permanent housing. The funding for this program comes from the General Fund.

TOTAL: 335 impacted individuals/households

The funding for these programs (except for the Metro 300 grant) will be discontinued as of July 1, 2021.

Will the Board instruct the county administrator to secure $10 million dollars to maintain these five supportive housing programs?

OR

Should staff begin the process to discontinue the listed programs?

Staff may consider the following funding sources:
- An advance from Metro on projected SHS tax income
- Loan from the county general fund
- Use available funding within H3S
- ARPA, if eligible
- Outside sources (ie state, partner agencies)
- Additional options as identified

FINANCIAL IMPLICATIONS (current year and ongoing):

Is this item in your current budget? ☐ YES X NO

What is the cost? $10,000,000 What is the funding source? TBD

STRATEGIC PLAN ALIGNMENT:

- How does this item align with your Department's Strategic Business Plan goals?
  - Improved community safety and health
  - Efficient and effective services
  - Individuals and families in need are healthy and safe

- How does this item align with the County's Performance Clackamas goals?
  - Ensure safe, healthy and secure communities

LEGAL/POLICY REQUIREMENTS:

PUBLIC/GOVERNMENTAL PARTICIPATION:
None

OPTIONS:

1. Instruct the county administrator to secure $10 million dollars to maintain these five supportive housing programs

2. Instruct staff to begin the notification process that these programs will be discontinued

RECOMMENDATION:
Staff recommends option 1 to instruct the county administrator to secure $10 million dollars to maintain these five supportive housing programs.

ATTACHMENTS:

Attachment A: Administrator Issues packet from June 1, 2021
Attachment B: Responses to questions from the Board of County Commissioners

SUBMITTED BY:
Division Director/Head Approval _________________
Department Director/Head Approval ______________
County Administrator Approval __________________

For information on this issue or copies of attachments, please contact _____________@ 503-__________

Memo

Metro
600 NE Grand Ave.
Portland, OR 97232-2736

Date: Tuesday, May 18, 2021

To: Eric Arellano, Multnomah County CFO; Jack Liang, Washington County CFO; Elizabeth Comfort, Clackamas County CFO

From: Brian Kennedy, Metro CFO; Rachael Lembo, Metro Finance Manager

Subject: FY22 Supportive Housing Services tax estimates

The Supportive Housing Services (SHS) tax became effective January 1, 2021, and collections began in April 2021. This memo documents Metro's expectations about the amount and timing of those collections through FY22.

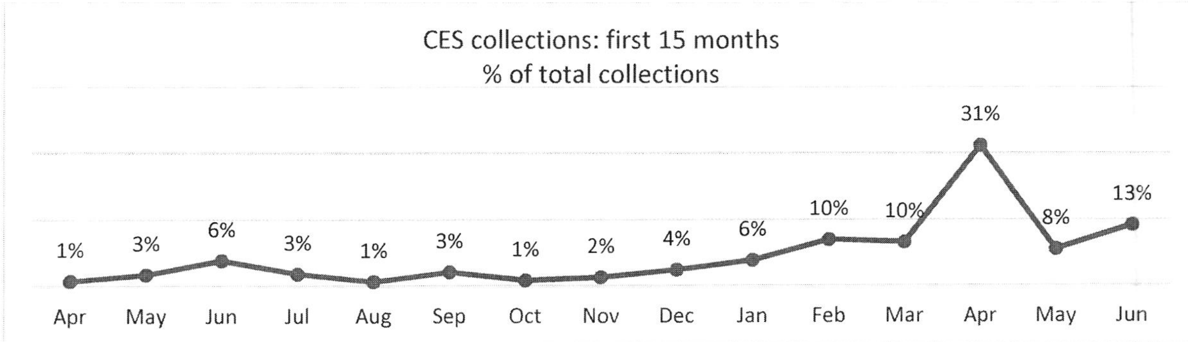
Metro's SHS revenue estimate in the FY22 approved budget is $180 million. This estimate has changed from the original estimate of $250 million based on changes made by the Metro Council to address potential double taxation and other issues. Those changes are anticipated to reduce revenues by 10-16% or $25-$40 million per year. In addition, the pandemic has impacted income of some businesses and individuals subject to these taxes, and Metro has lowered the tax revenue estimated as a result.

In October 2020, Metro provided county partners with an initial FY22 estimate to support program planning: $115 million to be distributed to our county partners for local implementation, allocated by the percentages noted in the ballot measure (see table below). This estimate was deliberately conservative with the intention of ensuring program and participant stability. In our FY22 budget we have budgeted $151 million for distribution to county partners, based on the FY22 revenue estimate noted above. This higher amount ensures Metro has sufficient budget appropriation to disburse funds to the counties as collections come in.

	Total local implementation funding	**Clackamas County (21.33%)**	**Multnomah County (45.33%)**	**Washington County (33.33%)**
Oct 2020 initial estimate	$115 million	$24,529,500	$52,129,500	$38,329,500
FY22 budget	$151 million	$32,208,300	$68,448,300	$50,328,300

Metro will disburse funds to the counties as taxes are collected. Collections are expected to begin slowly and gradually pick up through January 2022, as more payroll companies and employers complete the setup of payroll withholding and begin offering it. Collections are expected to peak in April 2022 when calendar year 2021 tax returns are due.

This is the expected pattern for a new income tax. The first 15 months of collections from the City of Portland's Clean Energy Surcharge (CES) tax are graphed below. Metro expects a similar pattern with the SHS tax, though early collections may be slower because the region hasn't had a local personal income tax since 2005, and a business income tax is new for businesses in Washington and Clackamas counties.



Metro looks forward to partnering with the counties as this new revenue stream begins. We will learn more each month as collections come in, and will share monthly collection reports and be available for discussions on revenue assumptions, tax implementation status, and tax collections at any time.

CC: Patricia Rojas, Metro Housing Director; Marc Jolin, Joint Office of Homeless Services Director; Komi Kalevor, Housing Services Director for Washington County; Jason Kirkpatrick, Housing Authority of Clackamas County; Ed Johnson, Housing Authority of Clackamas County

Health, Housing
& Human Services
CLACKAMAS COUNTY

Jill Smith, *Executive Director*
Housing Authority of
Clackamas County

EQUAL HOUSING OPPORTUNITY

May 24, 2021

To: Gary Schmidt, Clackamas County Administrator

From: Rod Cook, Interim Director, H3S
Jill Smith, Housing Director

Re: Supportive Housing Services (SHS) Funding

At your request staff prepared this memo to demonstrate the difference between planned investments outlined in our Local Implementation Plan, (LIP) and the anticipated receipt of funding. As you know, recent communications from Metro staff indicate that the majority of tax revenues to fund this work will be received the third quarter of FY21-22 and distributed to the Counties following that receipt. Total projected FY21-22 SHS funding for Clackamas County is $32,208,300

FY21-22

100% Full tax collection anticipated for FY21-22 (Metro Projection) = $32.2M

LIP Plan is based on prior projections of $24.5M

Projected funding to be distributed to Clackamas County – Quarters 1 – 3 = $7,728,000

Tax Disbursement Schedule Based on New Modeling *		
Q1 - Estimated Disbursement July 2021	**$**	**3,220,000.00**
Q2 - Estimated Disbursement Oct 2021	**$**	**2,254,000.00**
Q3 - Estimated Disbursement Jan 2022	**$**	**2,254,000.00**
Q4 - Estimated Disbursement Apr 2022	*$*	*8,372,000.00*
Q1 FY22-23 Estimated Disbursement July 2022	*$*	*24,150,000.00*
Total Tax estimated for collection FY21-22	**$**	**32,200,000.00**
Projected total Disbursement to County Q1-3	**$**	**7,728,000.00**

*Model based on collections of the City of Portland's Clean Energy Surcharge (CES) tax in Metro Memo 5/18/21

Full Implementation of the SHS Program FY21-22 for Q1-3

Q1-3 Budget Based on Approved LIP	$	18,772,233.20
New Revenue Projection Q1-3 from Metro	$	7,728,000.00
Funding Gap for Full Program Implementation	$	11,044,233.20

SHS LIP Budget for Year 1 Projected $24.5M

		Amount
Population A (75%) - Disabled & Experiencing Long Term Homelessness		
Outreach	$	1,000,000.00
Immediate Shelter/Transitional	$	1,664,000.00
Shelter Capitol/Aquistion/Rental	$	2,800,000.00
Housing Placement	$	625,000.00
Housing Navigation	$	850,000.00
Long Term Rent Assistance	$	3,600,000.00
Services & Case Management	$	2,400,000.00
Admin for Community Based Organizations	$	1,646,728.00
Total Population A investments	**$**	**14,585,728.00**
Population B (25%) - At Risk of Long Term Homelessness		
Outreach	$	210,000.00
Immediate Shelter/Transitional	$	416,000.00
Shelter Capitol/Acquisition/Rental	$	700,000.00
Housing Placement	$	180,000.00
Housing Navigation	$	318,750.00
Long Term Rent Assistance	$	600,000.00
Short Term Rent Assistance	$	1,276,000.00
Eviction Prevention	$	631,840.00
Admin for Community Based Organizations	$	411,682.00
Total for Population B investments	**$**	**4,744,272.00**
Capacity Building/Program Operations (75%/25% split)		
Rent Assistance & Program Operations	$	1,520,000.00
Capacity building for Culturally Specific Providers	$	1,200,000.00
Total Capacity Building/Program Operations	**$**	**2,720,000.00**
Administrative - 5%	**$**	**1,225,000.00**
Required Regional Investment of 5%	**$**	**1,225,000.00**
	$	**24,500,000.00**

Minimum Start-up of the SHS Program FY21-22 for Q1-3

Q1-3 Minimum Start-up Budget	$	11,963,062.50
New Revenue Projection Q1-3 from Metro	$	7,728,000.00
Funding Gap for Minimum Program Implementation	$	4,235,062.50

Q1-Q3 FY21-22 - Minimium Start-Up Budget

Pop A & B - Rent Assistance & Services		
Rent Assistance for 200	$	2,000,000.00
Barrier Busting for 50	$	250,000.00
Support Services	$	1,480,000.00
Outreach A & B	$	907,500.00
Navigation A & B	$	876,562.50
Total Pop A & B - Rent Asistance & Services	**$**	**5,514,062.50**
Continuation of Current Programs		
Hotel Model - 150 families for 9 months	$	4,050,000.00
Veterans Village	$	175,000.00
Serenity House - Corrections	$	113,000.00
Haven House - Corrections	$	144,000.00
Total Continuation of Current Programs	**$**	**4,482,000.00**
Other Program Expenses		
Program Operations	$	1,121,250.00
Capacity Building for Culturally Specific Providers	$	245,750.00
Administrative	$	600,000.00
Total Other Program Expenses	**$**	**1,967,000.00**
Total for Min. for SHS Program July 1, 2021- April 30, 2022	**$**	**11,963,062.50**

Klepper, Emily

Subject:	FW: Maintaining Essential Services Cost Projection
Attachments:	Essential Funding for SHS start 5.26.21.B.XLSX

Hello Elizabeth,

The information you requested by quarter is attached. This chart represents only current services that were anticipating SHS funding to keep people housed effective July 1 2021. One of the programs, Metro 300 has adequate funding through August 2021 and you will see that reflected in the lower first Quarter funding requirement.

This chart tracks expenses only and makes NO assumptions about SHS or any other funding source.

Staff is currently putting together a policy session staff report for the Board that will include both this information as well as potential funding sources for the Board to consider. That document will be submitted to the H3S Directors office for review by Tuesday June 1. We anticipate that policy session will take place on June 8th.

If you have questions please coordinate through Rod and Ed as I'm leaving for vacation in the morning. Thanks so much for your help identifying a temporary solution, we know this funding is coming and it has the potential to improve the lives of so many folks I'm trying to keep that in mind as we identify solutions.

Jill

Jill C. Smith
Director of Housing and Housing Services
Health, Housing and Human Services, (H3S)
Clackamas County
PO Box 1510
Oregon City, OR 97045
503 742-5336 office
503 502-9278 cell

Health, Housing & Human Services
CLACKAMAS COUNTY

Our office is open Monday through Thursday from 7 am to 6 pm, closed on Fridays

Essential Services Budget FY21-22 - SHS Funding

Budget to keep the following programs operational for FY21-22	Yearly	Monthly Per HH/Bed	Q1	Q2	Q3	Q4
ESG Rapid Rehousing Program for 50 HH	$ 1,302,600.00	$ 2,171.00	$ 325,650.00	$ 325,650.00	$ 325,650.00	$ 325,650.00
Metro 300* for 104 HH	$ 2,440,540.00	$ 2,346.67	$ 244,054.00	$ 732,162.00	$ 732,162.00	$ 732,162.00
Hotel Model for 143 HH	$ 6,184,400.00	$ 3,603.96	$ 1,546,100.00	$ 1,546,100.00	$ 1,546,100.00	$ 1,546,100.00
Serenity House & Haven House - Corrections Program for 19 Beds	$ 347,064.00	$ 1,522.21	$ 86,766.00	$ 86,766.00	$ 86,766.00	$ 86,766.00
Veterans Village 19 Beds	$ 315,895.00	$ 1,385.50	$ 78,973.75	$ 78,973.75	$ 78,973.75	$ 78,973.75
Total Minimum Essential Programs	**$ 10,590,499.00**		$ 2,281,543.75	$ 2,769,651.75	$ 2,769,651.75	$ 2,769,651.75

*Metro 300 vouchers & services will end August 31, 2021.

Klepper, Emily

Subject: FW: Supportive Housing Services Funds

From: Brian Kennedy <Brian.Kennedy@oregonmetro.gov>
Sent: Tuesday, May 25, 2021 4:55 PM
To: Smith, Jill <JSmith6@clackamas.us>; Comfort, Elizabeth <EComfort@clackamas.us>; Johnson, Ed <ejohnson@clackamas.us>; Kirkpatrick, Jason <JKirkpatrick@clackamas.us>
Cc: Patricia Rojas <Patricia.Rojas@oregonmetro.gov>; Rachael Lembo <Rachael.Lembo@oregonmetro.gov>
Subject: Supportive Housing Services Funds

Warning: External email. Be cautious opening attachments and links.

Jill, Elizabeth, Ed and Jason,

As we discussed earlier today, Metro can advance Clackamas County up to $5 million on July 1st, 2021 or when the IGA between the County and Metro is fully executed, whichever is later. Metro would make these funds available through an internal interfund loan and will assess interest at the Local Government Investment Pool rate (currently 0.6%) until sufficient tax revenues are collected to reimburse Metro or June 30, 2022, whichever comes first. Interest costs will be withheld from the County's final payment in FY2022. These terms will need to be included in the IGA. Please let me know if you have any questions.

Alternatively, we are happy to provide technical assistance to your staff and advise Clackamas County on how to structure its own interfund loan for supportive housing services as Multnomah and Washington County have recently done for the same purpose.

Brian Kennedy
Chief Financial Officer
Metro Finance and Regulatory Services

My gender pronouns: he, him, his.
Why include this?

600 NE Grand Ave.
Portland, OR 97229
503-797-1913
oregonmetro.gov

Klepper, Emily

From:	Madkour, Stephen
Sent:	Wednesday, May 26, 2021 10:51 AM
To:	Schmidt, Gary; Fischer, Sonya; Savas, Paul; Schrader, Martha; Shull, Mark; Smith, Tootie
Cc:	Naylor, Andrew
Subject:	HACC Bridge Funding

Commissioners, you have asked about the availability of different funding sources to potentially serve as a short-term funding mechanism for the Housing Authority to staff positions in anticipation of receiving the County's share of Metro's SHS revenues.

1. Emergency rental assistance grant

You asked if the emergency rental assistance grant could potentially be used to provide funds for a HACC bridge loan until Metro SHS tax revenue is received. The short answer is no, I don't think those funds could be used for this purpose.

The funds were awarded under Section 501 of Division N, Title V, Subtitle A (Emergency Rental Assistance or "ERA") of the consolidated appropriations act of 2021, pub. L. no. 116-260. These funds are for purposes of paying rent and utilities to households unable to pay due to COVID.

The legislation limits what the funds can be used for. See p. 891 of the following: file:///C:/Users/anaylor/Downloads/BILLS-116hr133enr.pdf

It provides that not less than 90% of the funds must be used to provide financial assistance to eligible households to pay rent, rent arrears, utility/energy costs, utility arrears, and other expenses.

No more than 10% of funds may be used to pay for household case management and other services intended to keep a household stably housed.

No more than 10% of the funds may be used for administrative costs "attributable to providing financial assistance and housing stability services" under the act. The legislation lists data collection and reporting requirements as appropriate administrative costs.

To the immediate question, there does not appear to be any basis to use of Oregon ERA funds for a bridge loan as a direct expense. The Oregon ERA funds are for COVID-impacted households, and direct use of funds are for payment of rents, utilities, household management services, etc. A bridge loan to HACC is purely an internal financial/administrative matter of the County and HACC, even if HACC intends the funds to be used to pay for staff or other programs that have a housing connection. Moreover, the Oregon ERA program is tied directly to the COVID pandemic, while HACC's SHS program is much broader.

As a result, direct use of the Oregon ERA funds seems inappropriate for a HACC bridge loan.

One nuance is whether the County's allocation of Oregon ERA funds for administrative expenses could be used as a bridge loan. The State published guidance on use of the funds, and describes administrative expenses at p. 23 of their Oregon ERA manual: https://www.oregon.gov/ohcs/for-providers/Documents/manuals/OERAP-Program-Guidance.pdf. Administrative direct and indirect costs are also set forth in federal regulations at 2 CFR 200.413 and .414. Generally direct admin costs are those that can be directly assigned to the activity. A bridge loan to HACC would not be a direct administrative cost given its separation from the ERA program.

Indirect costs, discussed at 2 CFR 200.416, are those originating in each department or agency of a governmental unit carrying out the federal award. It is questionable that a bridge loan to HACC for SHS programs would qualify since they aren't necessarily carrying out the rent assistance purposes of the ERA for COVID-impacted families. There might be some overlap of who is being served, but HACC's administration of the SHS program isn't directly related to the Oregon ERA program. Further, even assuming there was some kind of connection between the two, I'm not sure how, as a practical matter, the County or HACC could differentiate use of funds in a bridge loan context so that we ensure the funds are only used for administrative expenses incurred in responding to COVID-impacted households.

Last, we reached out to social services (who administers the Oregon ERA grant), and they indicated they would need the administrative cost allocation to actually run the program. Given that, there is likely no administrative costs available to support a bridge loan. As such, even if somehow we could consider a HACC bridge loan as being an indirect administrative expense, doing so would directly impact social services' administration of the Oregon ERA program since they are intending to use those funds.

2. ARP funds

You also asked about potentially using ARP funds for a bridge loan. In reviewing the guidance that was recently published (https://drive.google.com/file/d/1N_07Fu3ML0ySYE2VYu2DbB8rynoQYtye/view), we are of the opinion that it is unlikely that a HACC bridge loan qualifies as an eligible use of the funds. The guidance provides that the funds can be used for the following:

- Support public health expenditures in responding to COVID;
- Addressing negative economic impacts caused by COVID (referring to economic harms to workers, households, small businesses, impacted industries, and the public sector);
- Replacing lost public sector income due to reduction in revenue from the pandemic;
- Providing premium pay to essential workers;
- Investing in water, sewer, and broadband infrastructure.

The problem is use of the funds (other than the infrastructure ones) all require some COVID-19 impact. HACC's situation lacks the COVID-impact connection. Given that, I'm not seeing how a bridge loan would fall into any of these categories. Perhaps if we could get some clarification from whichever federal contact we may have to receive these funds, or additional information from HACC on how the bridge loan might fall into these categories, the analysis would change. However, based on the information contained in the guidance, these funds do not appear to be available for a bridge loan.

3. Metro Loan/Advance

We could ask Metro for a loan or advance on SHS revenue to fund our start-up operation costs. We are reluctant to recommend this, as it would require additional negotiation of terms and conditions with Metro. This would add yet another layer to the ongoing negotiations, and there's no guarantee Metro would loan funds on terms acceptable to the County.

4. Metro SHS IGA

If the County decides to provide its own bridge funding to HACC out of the County's general fund, then we recommend that we include language within both the interim IGA and the permanent IGA stating that Metro stipulates that County-funded bridge funding is a reimbursable expense of the SHS tax revenues and that any loan made by the County to fund such start-up operations will not be counted against the County's current contribution of allocations to funding homeless services.

Please let me know if you have additional questions. Thanks

Stephen L. Madkour | County Counsel
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Klepper, Emily

From:	Naylor, Andrew
Sent:	Wednesday, May 26, 2021 10:57 AM
To:	Smith, Tootie; Fischer, Sonya; Schrader, Martha; Savas, Paul; Shull, Mark
Cc:	Schmidt, Gary; Madkour, Stephen
Subject:	Metro Validation Action Summary
Attachments:	Metro Validation Action Petition SHS filed 20201230 20CV46617.pdf; 2021-01-27 PBA Response to Metro's Validation Petition.pdf; Metro Validation Summary Judgment 2-23-21 (FINAL).pdf; PBA OR - 2021-03-15 Respondents' Motion for Summary Judgment.pdf; Metro Reply iso MSJ and Response to Respondents' MSJ (Final 3-25-21).pdf; 2021-04-01 Respondents' Reply ISO Motion for Summary Judgment.pdf; Unweirding Portland's Target Tax Regime.pdf

Commissioners,

The following is a brief summary of the Metro validation action that was discussed at Monday's hearing. In very general terms, Metro filed an action seeking to validate its tax-implementation ordinance. The underlying tax itself is not at issue, only how it is collected.

Generally, new income taxes are required to be implemented consistent with state law. ORS 268.505(4). Metro argues that it did not impose the supportive housing services tax (SHS Tax) pursuant to that statute. Instead, Metro implemented the SHS Tax under its home rule authority. Because Metro imposed the SHS Tax under its home rule authority, and not ORS Chapter 268, Metro argues that it isn't subject to the requirement that the SHS Tax be implemented consistent with State law. Respondents, a coalition of local businesses, disagree and dispute Metro's authority to deviate from State law with respect to collection of the SHS Tax.

This matters because Metro modeled its implementation of the SHS Tax after Multnomah County's business income tax rules and procedures (versus the State's approach).

The most significant difference is how income is "sourced," and how "pass through" business entities (like partnerships or LLCs) are taxed.

On sourcing, Metro's ordinances use a "cost of performance" sourcing rule to determine what portion of a business's income is taxable. This focuses on the location of the business, versus a market-based rule, potentially burdening local businesses more than others. The difference is primarily with respect to the sale of non-tangible goods, which under Metro's ordinance are deemed to be subject to the tax if the income-producing activity occurs within Metro's boundaries. The State's approach would look instead to whether the non-tangible goods are marketed for sale within Metro boundaries.

On the pass through issue, Metro imposes the tax directly on pass-through entities not currently subject to tax under state law, which is perceived as creating compliance burdens on the owners of these entities. The State does not tax the entity and instead taxes the individual on the share of income received from the entity.

It is unclear how the differences in collection would ultimately impact the dollars received from the SHS Tax. However, it seems safe to assume that shifting to the State's model could significantly alter the number of persons who pay the tax. Whether that means less or more taxpayers, we aren't sure. As a practical matter, it is unlikely respondents would litigate this issue if adopting the State's model resulted in more taxes, so it seems likely that a decision against Metro would mean less SHS dollars received.

Oral argument on the motions for summary judgment was held last Friday. An opinion should be forthcoming any day.

We've attached the summary judgment pleadings that were argued last week. However, their focus is on the legal issues and not necessarily the real-world impact of one tax collection approach over another. We've also attached an article published by the respondents' attorney, Nikki Dobay, which goes into the impact issue in a little more detail.

If there are any additional questions, please let us know.

Best regards.

Andrew R. Naylor
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Oregon City, OR 97045
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Health, Housing
& Human Services
CLACKAMAS COUNTY

Jill Smith, *Executive Director*
Housing Authority of Clackamas County

EQUAL HOUSING OPPORTUNITY

May 27, 2021

To: Gary Schmidt, Clackamas County Administrator

From: Rod Cook, Interim Director, H3S
Jason Kirkpatrick, Deputy Director-Finance, HACC

Re: Supportive Housing Services (SHS) Funding of Essential Services

At your request, staff prepared this memo to address the essential services to continue while the funding from the Metro SHS is better understood. As presented, there are five programs that can continue beyond their original funding source with SHS funds. The overall total of these amounts was reduced to $10M in light of the motion to reduce the budgeted amount of SHS funds.

Essential Services Budget FY21-22 - SHS Funding

Budget to keep the following programs operational for FY21-22	**Yearly**	**Q1**	**Q2**	**Q3**	**Q4**
ESG Rapid Rehousing Program for 50 HH	$ 1,202,600.00	$ 300,650.00	$ 300,650.00	$ 300,650.00	$ 300,650.00
Metro 300* for 104 HH	$ 2,240,540.00	$ 244,054.00	$ 732,162.00	$ 732,162.00	$ 732,162.00
Hotel Model for 143 HH	$ 5,893,901.00	$ 1,473,475.25	$ 1,473,475.25	$ 1,473,475.25	$ 1,473,475.25
Serenity House & Haven House - Corrections Program for 19 Beds	$ 347,064.00	$ 86,766.00	$ 86,766.00	$ 86,766.00	$ 86,766.00
Veterans Village for 19 Beds	$ 315,895.00	$ 78,973.75	$ 78,973.75	$ 78,973.75	$ 78,973.75
Total Minimum Essential Programs	**$ 10,000,000.00**	$ 2,183,919.00	$ 2,672,027.00	$ 2,672,027.00	$ 2,672,027.00

*Metro 300 vouchers & services will end August 31, 2021.

The total budgeted expense for the first two quarters of FY22 to maintain these programs is $4,855,946.

Metro's offer to loan/advance up to $5M (at the LGIP interest rate) to be paid back by subsequent tax collection from Measure 26-210 would allow these programs to continue for the first two quarters of the fiscal year. This loan would allow more time to evaluate actual collections and distributions from Metro while continuing essential services to our most vulnerable citizens.

Supportive Housing Services – BCC Questions

Policy Session

Contracts

1. The memo in the packet indicates funding will be disbursed when the IGA with Metro is completed and signed. What is the status of the IGA?

   It is actively being negotiated. Negotiations are taking longer because of the structure in which they are being conducted and the need to work in tandem with both Washington and Multnomah Counties. The issues with the IGA are being broken into groups that are being discussed between the parties. There is a policy group discussing programmatic issues, a finance group addressing funding concerns, and the legal group which will bring it all together and work on acceptable language once the other groups are generally in agreement. County Counsel is currently waiting for resolution of the policy/finance groups' negotiations in order to begin drafting the negotiated changes. One of the challenges with the initial draft of the IGA is that it included significant oversight terms and conditions that we believe exceed those required by the SHS measure approved by the voters. This has required significant discussions between the counties and Metro. In the interim, County Counsel has nearly finalized a short-term funding agreement to provide a three month window in which to receive funds while continuing negotiations. This will give a buffer in the event the larger IGA is not completed by the end of June.

2. At the April 13 meeting with the BCC, it was suggested that that work plan could be brought forward before August, and that the work plan, IGA, and LIP all need to be compatible and complimentary. What is the status of the work plan?

   The details of the work plan and other templates pointed to in the IGA are being negotiated between staff at the three counties and Metro. The template for the work plan will be developed in collaboration between the three counties and Metro subsequent to the agreement of the IGAs.

3. Will the work plan be embedded in a pro forma that details operational plans?

   The format and details of the work plan template will be developed over the coming year in collaboration between the three counties and Metro. All three counties' year one programs are to be guided by and in accordance with their LIPs.

4. What is the status of contracts with non-profits?

   There are no current SHS contracts. An SHS RFP was issued on May 17, 2021 and submissions are being scored by a scoring committee on June 3, 2021, but no awards have been announced nor have contracts been negotiated at this time.

5. Has staff created a list of non-profits who are likely to receive SHS funding first? Why or why not was a priority list created?

   No, staff have not created a list of non-profits to receive SHS funding first. There was a community process in which priority programming was discussed which is reflected in the resulting RFP document. A procurement was issued for SHS programming and dozens of non-profits responded with applications. Outreach to the non-profit community to encourage participation in the procurement was broad. Our LIP states in several places a priority to bring new providers into the community, with an emphasis on culturally specific providers, and outreach was done in accordance with that priority, encouraging providers who had not previously worked in the County to apply.

6. Will non-profits be on a reimbursement model? If not, what will our contractual arrangement with non-profits be in order to ensure our allocated SHS dollars are being used as intended?

   Reimbursement will align with County Finance policy and procedure. To date, there are no SHS contracts. There is an RFP that is in play but no awards have been announced nor have contracts been negotiated at this time. All payment models will be negotiated during the contracting phase of the procurement process. All contract administration ensures that awarded funds are being used as intended by the contracted party.

7. Is there a required 30 day noticing period if we are displacing people?

   No, there is no 30 day notice required for any of the above-discussed programs should they cease. The only exception for which I don't have an answer is Serenity and Haven. If the service contract with the non-profit provider does not have a June 30th term, it could very well be that Community Corrections must give a 30 day termination notice to the holder of the service contract.

Administration

1. The measure presented to voters are capped at 5%, yet it appears the Metro Auditor and others are projecting that the actual admin fees will be substantially higher. How will that be rectified and who will be held accountable?

   For Finance or H3S to discuss, but with respect to the hard rules, Metro's ordinance only imposes the 5% rule on Metro itself, not on the County. The ordinance also differentiates between costs to pay for collection and admin costs. This means Metro first pays for the tax collection costs, then it can retain 5% for admin/oversight costs, before distributing the rest to the counties. The admin cost caps in the IGA are recommendations, not firm requirements. See information below for more detail.

"Administrative costs will be restricted as follows:

A. As described in Section 4.1.A, after Metro's tax collection costs are paid, Metro may retain up to 5 percent of the remaining funds to pay for the costs to disburse the funds and administer and oversee the program. This includes convening and supporting the Regional Oversight Committee, establishing a regional data collection and reporting program, and supporting tri-county regional collaboration.

B. Administrative expenses incurred by Local Implementation Partners for provision of services are recommended not to exceed five percent of total annual funds allocated for provision of services, consistent with guidelines for similar programs funded by the State.

C. . Administrative expenses incurred by Local Implementation Partners and housing authorities for administering long-term rent assistance programs are recommended not to exceed 10 percent of total annual funds allocated for long-term rent assistance, consistent with guidelines for similar programs funded by HUD and the State.

D. Administrative expenses incurred by service providers are expected to vary based on program type, organizational capacity and other factors. The Regional Oversight Committee will include an analysis of service provider administrative costs in its annual monitoring of program expenditures. Based on this review, the committee may recommend adoption of service provider administrative cost guidelines for Metro Council consideration. Administrative costs do not include costs directly associated with program and service delivery."

2. Is there a scenario where counties would be responsible for reimbursing admin fees that exceed the 5% cap? If so, what is the outer boundary of financial liability?

   It is unlikely that this would occur. The IGA, in its current draft, does not set a hard cap on admin fees. Admin costs for SHS services are recommended not to exceed 5%. Admin costs for long-term rent assistance programs are recommended not to exceed 10%. There is an annual review process, as well as a budget approval process, so anticipated and actual admin costs will be assessed throughout the year. The IGA (in its current form) provides that the regional oversight committee may recommend adoption of administrative costs guidelines for Metro's consideration based on its annual review of the County's use of the funds. Metro's code reflects this as well, providing that the regional oversight committee will assess whether each counties' admin costs could or should be reduced or increased based on its annual review. As to the IGA itself, language is being negotiated that would clarify it is not a breach of the IGA if admin costs exceed recommended levels provided the County can provide reasonable support for the increased costs. As such, it is unlikely these costs would rise to the level of causing the County to incur financial liability.

3. A few weeks ago, Jill Smith indicated that HACC would require an additional 30+ FTE to fully implement the measure. At that time, HACC had 28 vacant positions. If the previously-anticipated revenue were to arrive on July 1, would the 28 vacancies be filled?

   No, most of these vacancies are not related to SHS. HACC has not received funding to hire SHS staff. The SHS planning work has been done since summer of 2020 via one on-loan employee from the H3S Director's Office (Vahid Brown) and part of the time of one HACC temporary management analyst, up until April 2021. In April three SHS positions were filled at HACC – the program manager (Vahid Brown) and data and contracts positions necessary to initiate the procurement, begin to negotiate contracts and stand up the program. A start-up team of around twelve FTEs was contemplated and work has been done on PCQs and related documentation, but lacking funding for these positions HACC has not yet moved forward to create or fill these vacancies. The current HACC org chart indicates nine vacancies in this contemplated SHS start-up team.

4. Of all the listed needs/programs/requirements, which are existing and which are new?

   Referencing the packet from the June 2nd Issues session, memo to County Administrator Schmidt dated May 27, 2021, Page 15 lists essential services budgeted FY21-22-SHS Funding.
   All the programs identified are existing programs. No new programs have been created or committed to. The exercise conducted by staff was to identify *existing* programs or activities that could be sustained past June 30, 2021 at the $10 million level (based on the placeholder amount in the H3S budget). Continuance of these programs beyond Q2 would depend on revenue from Metro.

5. Are the performance measures specific to Clackamas County's plan established and available for review? If not, will they be available before the first disbursement?

   Regional performance measures are established and set forth in the Metro Work Plan. Any additional local measures will be added over time.

<u>Funding</u>

1. The Metro Auditor's report suggests that anticipated revenues could vary significantly, and the pending court case could also change revenue levels. How are we planning to scale our work to meet actual disbursements?

   The LIP establishes our funding priorities and goals, based on a first-year budget of $24.5M. Variation in the actual budget or available funding will not change the priorities of the LIP but would obviously impact the scale at which those priorities and goals could be furthered in the first year.

2. What is the on-ramp to prepare first for when SHS dollars do arrive and continuing to next year when collection amounts are closer to what Metro had been advertising?

   The LIP priorities and the results of the RFP can guide initial activities should those be conducted under a more constrained budget. The SHS Program cannot function though without program staff. Part of the "on-ramp" then would be staffing up appropriately.

3. Will State rent assistance programs backfill CARES Act funding? Is that funding short-term?

   Currently, State rent assistance is available only for tenants who can show that they have experienced a COVID-related economic impact. Therefore, we do not believe State rent assistance funding can be used to backfill CARES Act funding.

4. The measure intended that SHS dollars would not supplant current dollars—what does that mean for current programs during the ramp-up?

   In our local Implementation Plan, Clackamas County identified public funding in the amount of $8.019.422 that serves the homeless population and committed to maintain these Federal, State and Local funding allocations and committed that the Supportive Housing Services Program funds will not replace existing resources, except in the case of a "good cause" waiver approved by Metro. If funding from PLP for, e.g., the Veterans Village were replaced with SHS funding and then redirected to homeless services in the rural areas, this is not supplanting. If those PLP dollars in this example were instead redirected to road maintenance, this would be supplanting.

   From Counsel's perspective, this is an area of the IGA that remains problematic. The intent of the restriction is to prevent the County from replacing funds it currently provides for SHS services. So long as the County is not taking funds currently being used for SHS programs, and using it for another purpose based on receipt of Metro funds, there shouldn't be an issue. However, this part of the IGA, and Metro's ordinance, is not clear and needs to be clarified before we can agree to the IGA.

5. Regardless of the amount of new funding we receive on July 1, wouldn't we need a ramp-up to enter into contracts, hire staff, calibrate service levels, and be thoughtful in standing up new or expanded programs?

   In terms of thoughtfully standing up new programs, we engaged in nine months of extensive planning and community engagement to inform our approach to standing up and expanding new programs, and that plan, the LIP, has been approved and applauded by the Oversight Committee. Yes, a ramping up of program staff is needed, and has been needed for many months. The proposal going forward is to: 1) sustain the skeleton staffing pattern to management current procurement and pre-contracting requirements; 2)

Prioritize SHS services and bring on-line these services as SHS funding permits; 3) Ongoing feedback to the community and BCC on the capacity to build the system.

6. Which programs can be funded with a ramp-up strategy? Which cannot?

   The LIP establishes our priorities. The RFP will produce a scored set of program proposals. Any amount of funding – ramp-up, start-up, bridge, however it is conceived or in whatever scope – can be utilized through these priorities and procurement. No programs are explicitly excluded from funding if the year-one budget is smaller than planned for in our RFP.

7. How much does it cost to shelter an average individual/family in a hotel room? Is that cost effective? If not, are we looking for alternatives?

   The cost to shelter a person in a motel room is approximately $3,399 per month for the room and $184/month for staffing, for a total of $3,583. This kind of sheltering is one of the most expensive housing interventions that we currently offer houseless people, but it also provides immediate protection for vulnerable individuals. However, it should be noted that this program is primarily funded by the FEMA non-congregate shelter program, and these funds can only be used available for motel-based sheltering. . To date, $1.2 million of the costs for the motel shelter are being paid by FEMA. Ideally, we would like to be able to offer a continuum of services which include shelter, rapid rehousing and permanent supportive housing. The rapid rehousing and permanent supportive housing are less expensive for the housing, but require more in terms of staffing costs.

8. Please describe funding for the Veterans Village. Is the Vets Village fully funded by H3S?

   Yes, Vets Village was originally funded by H3S and the original procurement was for a 3 year period. The $1.2 million Affordable Housing Policy Level Proposal (PLP) is available to cover the cost for the Vets Village; however, H3S carved out the Veterans Village amount to be covered by SHS funds in an effort to free up 90% of the PLP dollars to focus on non-Metro, rural communities in Clackamas County, but then the Metro Funding issue presented itself.

9. Please describe that if the SHS measure never passed, how would we be funding programs after July 1?

   The passage of the SHS measure allowed for the opportunity to establish a financed system (continuum of services). Without the measure, our overall capacity to address multiple parts of the system are diminished. At this time, the only programs that we have certainty with regard to funding at the H3S Director's Office are the Vets Village and some Emergency Winter Sheltering.

10. Is it true people will be homeless after July 1 or is that a choice because we have not reallocated funds to support these populations?

    H3S could reallocate all of the $1.2M towards sheltering programs, but we would have to de-fund other homeless programs. We believe there is approximately $600,000 to purchase about 30-45 nights motel/services for 143 households. We currently have 40 housing vouchers that would provide long-term housing- so some eligible families could be helped. It should be noted that funding from Kaiser -The 104 Elderly (Metro 300) ends August 2021. The outcome after July 1st really depends on which part of the response system the County chooses to prioritize.

11. Please consider what, if any, reallocations you would make within the H3S budget to fund the SHS programs until the Metro funds arrive.
    H3S has $400,000 that it can use to stand up the SHS program staffing this fiscal year. However, the IGA is currently on hold. Contingency funds are primarily restricted, but there may be a small amount available there.

12. Can ARPA funding be used to front SHS money?

    No. It would be at our risk to front ARPA funds and not have them repaid. If the dollars aren't used to respond to COVID-related issue, the County will be responsible for repaying those ARPA funds back to the US Treasury. Repayment would likely come from County General Fund. At this point, waiting for Final Guidance documents related to how these funds can be used would be a safer course of action and minimize risk of paying back funds.

13. What happens if there is no bridge/loan/advance funding? What programs stay in place and which ones would go away completely?

    - Veterans Village can be funded using Affordable Housing PLP funding.

    - Metro 300 households would have their year of funding end and for the overwhelming majority, if not all, of these households that would equate to a return to homelessness (these are older adults with disabling conditions). For some households, that year of rental assistance ends in July 2021 and some in August 2021. Emergency Housing Vouchers (EHV) are an option being explored to continue the assistance for some of these households, though HACC's initial allotment of EHVs is 40 vouchers which will not cover the whole program group being served.

- Serenity and Haven have no alternative source of operating funds identified; therefore, these two programs would end.

- The motel shelter program will end June 30, 2021. FEMA funding has sustained the program. However, once the Governor ends the state of emergency the funding ends.