

RESOLUTION NO. 5520-20

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT WITH THE OREGON DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT FOR ASSISTANCE WITH A HOUSING PRODUCTION STRATEGY AND HOUSING CODE UPDATES

WHEREAS, ORS 190.110 et seq., authorizes the City to enter into Intergovernmental Agreements with other government entities;

WHEREAS, the State of Oregon, acting through its Department of Land Conservation and Development (DLCD), received legislative appropriations to assist cities in updating their comprehensive plans and land use regulations to promote housing availability and affordability;

WHEREAS, DLCD is providing direct funding for two consultants to assist the City in creating a Housing Production Strategy and code updates to promote housing availability and affordability;

WHEREAS, the City wishes to enter into the intergovernmental agreement.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TUALATIN, OREGON, that:

Section 1. The City Manager is authorized to execute an Intergovernmental Agreement (IGA) with DLCD, which is attached as Exhibit A, for assistance with a Housing Production Strategy and housing code updates.

Section 2. This resolution is effective upon adoption.

ADOPTED by the City Council this 14th day of September, 2020.

CITY OF TUALATIN, OREGON

BY _____
Mayor

APPROVED AS TO FORM

ATTEST:

BY _____
City Attorney

BY _____
City Recorder

EXHIBIT A

Resolution No. 5520-20

DLCD IGA #19128 – City of Tualatin – HPS & Housing Code Updates

INTERGOVERNMENTAL AGREEMENT

City of Tualatin HPS & Housing Code Updates

This Agreement is between the State of Oregon acting by and through its **Department of Land Conservation and Development (“DLCD”)** and **City of Tualatin (“City”)**, each a “Party” and, together, the “Parties.”

I. AUTHORITY

This Agreement is authorized by ORS 190.110.

II. EFFECTIVE DATE

This Agreement is effective on the date of the last signature {"Effective Date"}, and terminates on **June 15, 2021**, unless terminated earlier.

III. BACKGROUND

During the 2019 legislative session, the legislature appropriated funds to the Department of Land Conservation and Development (Agency) for the purpose of allowing the Agency to assist participating cities and counties (collectively, local governments) implement House Bills 2001 and 2003. This assistance will be provided, in part, through the Housing Needs Technical Assistance and Housing Code Technical Assistance Projects (Projects), which are important elements of House Bill 2001 and House Bill 2003 (2019) (HB 2001, HB 2003).

DLCD will provide technical assistance (via a Consultant) to a city or county for the purpose of increasing the supply and affordability of housing within designated urban growth boundaries. Technical assistance will be provided to update comprehensive plan and land use regulations, or to adopt other housing strategies, that help ensure that cities can satisfy their future housing needs. DLCD will also hire Consultants to provide a code audit or code update to help ensure the existing zoning code not only allows, but removes barriers to the development of needed housing.

DLCD has received a special appropriation of funds for the 2019-2021 biennium to assist cities in updating their comprehensive plans and land use regulations to promote housing availability and affordability. The Housing Needs Technical Assistance Project (Project) is financed with State of Oregon General Funds. State funds are paid under this Agreement by DLCD to **Moore Iacofano Goltsman (MIG)** (Consultant), to provide Code Update services, and **ECONorthwest** (Consultant), who will prepare a Housing Production Strategy (HPS) for the City. See below for detailed statements of work for each. No funds will be given directly to the city for tasks outlined in this IGA or any expenses incurred by the city as a result of this Project.

IV. PROJECT OBJECTIVE AND MAJOR DELIVERABLES

Code Update

The primary objective of this Project is to assist a Participating City with a code update of the zoning and development code(s). The code update must ensure that the jurisdiction meets minimum standards to meet the allowance of Middle Housing in HB 2001.

- Non-Metro Cities with more than 10,000 residents update their comprehensive plans and development codes to allow duplexes on each lot or parcel zoned for residential use that allow for the development of detached single-family dwellings by June 30, 2021.
- Cities with more than 25,000 residents and cities and counties over 1,000 residents in the Portland Metropolitan area must update their comprehensive plans and development codes to allow all middle housing types in areas zoned for residential use that allow for the development of detached single-family dwellings and duplexes on each lot or parcel zoned for residential use that allow for the development of detached single-family dwellings by June 30, 2022

HPS

The primary objective of a Prototype **Housing Production Strategy (HPS)** is to assist the City in producing documents that identify actions for the community to take to address housing needs.

Pursuant to HB 2003, cities over 10,000 will be required to submit HNAs on a fixed 6-8 year schedule. The HNA will require the local government to identify a housing need that will be expressed as a number of housing units by type and affordability.

Furthermore, cities with population over 10,000 will also be required to submit a Housing Production Strategy Report within one year of HNA adoption. In the HPS Report, the city will be required to identify strategies to support the development of the housing needs identified in the HNA over the 20-year planning period. The sum of all strategies proposed in the HPS Report must address the total 20-year housing need identified in the HNA.

This Housing Production Strategy Report will be comprised of five main components:

1. **Contextualized Housing Needs** describes a city's housing needs as identified by the most recently adopted Housing Needs Analysis. Per HB 2003, this section must include other considerations that describe current and future housing needs in the context of population and market trends. Additionally, because HNAs calculate housing need by income group, the analysis often poorly estimates the housing needs of those experiencing homelessness and those living with disabilities. DLCD proposes that cities conduct an analysis of the specific housing needs of the homeless population, those living with disabilities, and other State and Federal protected classes.
2. **Engagement** identifies the process by which the city has engaged, or plans to engage, a diverse set of stakeholders in the development of the Housing Needs Analysis and Housing Production Strategy. This section is separated into two parts 1) engagement of housing consumers and 2) engagement of housing producers. This section requires that a city engage underrepresented communities in the Housing Production Strategy process and must describe how the insights gleaned from this engagement have impacted the housing production strategies the city plans to implement.
3. **Strategies to Accommodate Future Housing Need** outlines the specific tools/actions/policies that the city will implement to facilitate the production of housing. For each strategy, in addition to stating the timeline for adoption and implementation, the city must address how the strategy overcomes patterns of segregation and fosters inclusive communities free from barriers that restrict access to opportunity based on protected characteristics.

4. **Achieving Fair and Equitable Housing Outcomes** describe the actions taken by a city that further housing opportunity in the city. In this section cities must outline specific or planned practices that link housing to transportation, affirmatively further fair housing, provide access to housing choice, address housing for people experiencing homelessness, create opportunities for affordable rental housing and homeownership, and address gentrification, displacement, and housing stability.
5. **Conclusion** narrates the expected outcome of the proposed housing production strategies. This must include an analysis of the opportunities, challenges, and negative externalities that may result from the collective implementation of the strategies proposed. Specifically, this section must include a description of how the city expects to increase housing options for populations that have a disproportionately high need by answering a series of reflection questions at the end.

V. ROLES AND RESPONSIBILITIES

City: Overall management of the Project will be the responsibility of the City. The City will appoint a Project Manager to be the principal contact person representing the City on all matters dealing with the Project.

Specific project management duties of the City will include:

- a. Coordinating project schedule and deliverables with Consultant;
- b. Coordinating City staff;
- c. Ensuring the timely completion of tasks and delivery of supporting data/information to Consultant;
- d. Reviewing and editing Consultant work;
- e. Appointing a project advisory committee with representation from the community;
- f. Noticing, scheduling, and managing advisory committee meetings and public official work sessions and public hearings, if any. Activities include preparing and distributing meeting notices, agendas, and summaries; and assisting the Consultant with meeting facilitation.

DLCD: DLCD will provide financial, administrative, and technical assistance to the Project. DLCD will participate in advisory committees. Additional technical assistance may be provided as requested by the City or Consultant. DLCD will review Consultant's work, invoices, and progress reports. Additionally, DLCD will review the Consultant's performance and deliverables with the City prior to paying invoices received by the Consultant. DLCD will assist in the mediation of Consultant/City conflicts, or issues with the project or deliverables.

VI. COMPENSATION AND COSTS

Each Party shall assume its own costs of carrying out the tasks and responsibilities assigned to it under this Agreement. Under no circumstances is the Local Government responsible for payment of costs incurred under the contract between DLCD and the chosen Consultant.

VII. KEY CONTACTS

City

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Consultant (HNA)

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A Party may designate a new authorized representative by written notice to the other Party.

VIII. TERMINATION

- a) This Agreement may be terminated at any time by mutual written agreement of the Parties.
- b) This Agreement may be terminated by DLCD upon 30 days advance written notice and by Local Government upon 45 days advance written notice.

IX. NON-APPROPRIATION

DLCD's obligation to perform its duties under this Agreement is conditioned upon DLCD receiving funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow DLCD, in the exercise of its reasonable administrative discretion, to meet its obligations under this Agreement. Nothing in this Agreement may be construed as permitting any violation of Article XI, Section 7 of the Oregon Constitution or any law limiting the activities, liabilities or monetary obligations of DLCD.

X. SCOPE OF WORK

CODE UPDATE

City of Tualatin Middle Housing Code Update

Task 1. Project Kickoff

Establish a Project Management Team (PMT) to include key City staff, DLCD representative(s), and Consultant project manager. Conduct PMT Meeting #1 to review the scope of work, refine the project schedule, and confirm public outreach methods for the project.

Prior to PMT Meeting #1, the DLCD hired Consultant shall review the City's recently completed Housing Needs Analysis and initial Housing Strategy, Comprehensive Plan, and Tualatin 2040 code (ongoing), and develop an agenda and questions for PMT discussion. All project meetings are to be conducted by video conference unless otherwise agreed by all parties.

City will coordinate and set up interviews with members of the Planning Commission or other stakeholder representatives with Consultant to discern key issues and opportunities relating to middle housing. Allow a total of up to six individual/group interviews.

City Obligations:

- Coordinate scheduling of PMT meeting
- Identify and coordinate scheduling of interview participants

City Deliverables:

- Provide links or electronic copies of all necessary background documents
- Provide editable (Word) version of existing code

Schedule: August-September 2020

Task 2. Code Audit

This task will be to prepare Code Audit addressing the following two-track approach for middle housing code amendments:

Track 1 will identify regulatory barriers and code changes necessary to implement House Bill 2001 in Tualatin where the Bill's requirements for large-size cities apply. This includes allowing duplexes in all zones where single-family dwellings are permitted and applying development standards to duplexes that are consistent with standards for single-family dwellings. DLCD hired Consultant will consider the City's lack of an express clear and objective track for permitting multifamily as part of this task.

Track 2 will identify code changes to support development of more intensive middle housing, including triplexes, fourplexes, cottage cluster development, and townhomes. This track will also outline additional development standards and review procedures for middle housing to support these more intensive middle housing types.

The audit will address applicable policies contained in the City's Comprehensive Plan and Housing Needs Analysis.

Conduct PMT Meeting #2 to review the Draft Code Audit.

Consultant will prepare Revised Draft Code Audit.

Revised Draft Code Audit will be presented to the Planning Commission (Meeting #1).

Provide comments to Consultant for preparation of Final Code Audit.

City Obligations:

- Coordinate scheduling of PMT meeting

City Deliverables:

- Review draft materials and provide consolidated comments
- Coordinate scheduling and agenda of Planning Commission meeting
- Post any public materials to City website

Schedule: September-October, 2020

Task 3. Develop Middle Housing Code Concepts

This task will be to prepare Draft Illustrative Code Concepts for the two middle housing code amendment tracks: 1) Duplexes, and 2) Other Middle Housing. The code concepts will illustrate basic form and character for up to four (4) housing types total, with two (2) configurations of each type, and for placement on up to two (2) different lot types each (resulting in up to 16 discrete studies). The illustratives will be developed based on HB 2001 requirements and will be reviewed by the PMT and Planning Commission in Tasks 3.2 and 3.4. The illustratives are intended for adoption into the City's code.

Conduct PMT Meeting #3 to review the Draft Code Concepts.

Consultant will prepare Revised Draft Code Concepts.

Revised Draft Code Concepts will be presented to the Planning Commission (Meeting #2).

City will coordinate and advertise a community event to present required middle housing elements based on statutes and administrative rules, code audit findings, and recommendations from the code concepts. City will handle meeting arrangements, facilitation of the event, and a brief event summary. The event will be held via video conference call and DLCD hired Consultant will record meeting notes and comments through a digital whiteboard, as well as collect any comments submitted through the chat feature.

City to provide event summary comments to Consultant for preparation of Final Code Concepts.

Consultant will prepare Final Code Concepts presentation materials.

City Obligations:

- Coordinate scheduling of PMT meeting

City Deliverables:

- Consolidated comments of draft code concepts
- Agenda and scheduling of Planning Commission meeting
- Published schedule of community event
- Link to City website showing public materials

Schedule: November-December, 2020

Task 4. Draft Code Amendments

This task will be to prepare a preliminary draft and final draft of adoption-ready middle housing code amendments based on the findings of the Code Audit (Tracks 1 and 2) and the Code Concepts deliverables. Code amendments to contain text and integrated/cross-referenced graphics.

The code amendments will provide clear and objective standards for each of the middle housing types and an optional discretionary permit procedure for middle housing types that do not meet the clear and objective standards.

This effort may include amendments to the City's Comprehensive Plan to provide enabling policy for the Track 2 middle housing code amendments. (This task does not include drafting of legislative findings, public notices, or staff reports.)

City will coordinate and advertise for a Community Event #2 that will include members of the Planning Commission at which the Consultant will present the draft code amendments. Feedback from the meeting will be used to revise the code amendments for presentation to the City Council in a public work session (pre-hearing) in Task 5.

City Obligation:

- Coordinate scheduling of PMT meeting

City Deliverables:

- Consolidated comments of draft code concepts
- Published schedule of community event
- Link to City website showing public materials

Schedule: January-February 2021

Task 5. Work Sessions

City and Consultant will present the proposed middle housing code amendments to the City Council in public hearings. Assumes two (2) public hearing presentations. Does not include preparation of staff report, public hearing notice, or findings.

City Deliverables:

- Meeting schedules and agendas
- Consolidated comments of draft code concepts

Schedule: December 2020 and June 2021

HOUSING PRODUCTION STRATEGY (HPS)

The City of Tualatin was selected by the Department of Land Conservation and Development to develop a prototype **Housing Production Strategy (HPS)**. The Strategy will be among the first HPS produced in the State, based on emerging rules for developing an HPS, which will be available by November 2020. The HPS will build from recently completed work on the Tualatin Housing Needs Analysis (HNA) and the Tualatin Housing Strategy. This draft scope of work is based on the proposed report structure for HPS.

Task 1: Project Kickoff

The purpose of the project kick-off is for the City to meet with the DLCD hired Consultant and help them become familiar with local conditions and with City's planning documents. This will also be a time for the parties to confirm the objectives of the project and refine the project schedule, and for the City to prepare for the Project. Upon receiving initial contact from the Consultant, either via conference call or in person, City shall respond to all inquiries from the Consultant about establishing project expectations and share city-specific concerns with the Consultant. Consultant will verify the action items identified through this initial conference with the City and will develop and share a proposed schedule for the actions required for the completion of all tasks. The level of detail required for the proposed project schedule should be determined and with mutual agreement by the City and the Consultant. The Project Kick-off will also confirm the appropriate composition of the Advisory Committee for this project and review plans for community engagement. The City will also reconvene the CAC.

Task 1 City Deliverables:

- Copy of relevant City data or documents

Task 2: Contextualized Housing Needs

Data Collection and Analysis

City will provide DLCD hired Consultant relevant data from the Consolidated Plan, HNA, Regional Housing Needs Analysis, recent housing market analyses, and other available sources needed for the HPS to describe current and future housing needs in the context of population and market trends. The analysis of contextualized housing needs will include:

- *Socio-economic and demographic trends of a jurisdiction's population, disaggregated by race to the extent possible with available data*
- *Market conditions affecting the provision of needed housing*
- *Existing and expected barriers to the development of needed housing*
- *Housing need for those experiencing homelessness, using the best available data*
- *Percentage of rent burdened households*
- *Housing by tenure (owner vs renter)*
- *Percentage of housing stock that is market rate vs. subsidized*
- *Units that are in the development pipeline by housing type*

The analysis of contextualized housing needs will also draw on information gathered through engagement with housing consumers, including underrepresented communities.

Outreach and Engagement

City will lead engagement with housing consumers, including direct outreach to individuals through interviews, focus groups, or other means; contacting community-based organizations and service

providers to connect with those they serve; and/or hosting events (virtual or in-person). Engagement will prioritize underrepresented communities within Tualatin, including renters, low-income households, Hispanic/Latinx residents, other racial and ethnic minorities and immigrant or refugee communities, veterans, people with disabilities, seniors, agricultural workers, and formerly and currently homeless people. The engagement efforts will build from past engagement with the Diversity Task Force and be coordinated with the event(s) required under HB4006 for severely rent burdened communities.

Due to COVID-19, engagement will seek to prioritize outreach to underrepresented groups to the extent reasonably and safely possible at this time within the limited engagement timeframe and resources of this project, and will emphasize outreach through agencies or non-profit groups that represent or work with under-represented communities. While the City will endeavor to make a good faith effort around outreach generally, and particularly to under-served communities, it is understood that the current situation (with the COVID-19 pandemic) presents unique barriers to engagement. In addition, outreach and engagement discussions are likely to occur via videoconference, teleconference, or telephone calls, rather than in-person.

The DLCDC hired Consultant will help plan for engagement, including helping define the questions and topics for outreach and methods to solicit input

Summary Document

Following data analysis and synthesis of outreach, the Consultant will produce a summary of contextualized housing needs. While this will initially be produced as a stand-alone memorandum, it will later become a section of the HPS. Consultant will present the draft to the Advisory Committee and make it available for public comment. (This is assumed to be presented at one of the committee meetings listed in Task 3, and not its own Advisory Committee meeting.)

Because engagement with underrepresented communities takes time and effort, this task will begin immediately following the kick-off and continue through the process of evaluating strategies.

Task 2 City Obligations:

- Conduct one-on-one interviews or small group discussions with housing consumers, described above

Task 2 City Deliverables:

- A Spanish translation of contextualized housing needs as discussed with Latinx community members

Task 3: Strategies to Accommodate Future Housing Need

Summary of Existing Measures and Past Recommendations

City staff will summarize measures already adopted by the City to promote the development of needed housing, including existing housing incentives and funding sources. This summary will identify existing practices that affirmatively further fair housing, link housing to transportation, provide access in Opportunity Areas, address equitable distribution of services, and create opportunities for rental housing and homeownership. City will provide summary to Consultant for review and to provide input.

Gap Review

Based on the evaluation of contextualized housing needs and the summary of the City's existing measures, Consultant will identify gaps where identified housing needs are not being met by the private market and there is inadequate public support to fully meet the identified needs. Consultant will review the list of strategies identified in the HNA process in 2019 against these gaps to evaluate how well the strategies identified to date address the contextualized housing needs and where additional strategies may be needed. This evaluation will be qualitative rather than quantitative. In other words, it is not a numerical comparison of units needed of a specific type to units being produced through existing measures, but rather an assessment of whether the City's existing measures and previously identified strategies address the relevant needs where greater public intervention is needed.

Based on the identified gaps, City will work with Consultant to identify any additional strategies needed to supplement those previously identified. Potential strategies will be sourced from and informed by existing measures, previously identified strategies, and possible additional strategies to more fully address contextualized housing needs in a memorandum to share with the CAC along with the Contextualized Housing Needs memorandum.

Strategy Refinement

City will work with Consultant and the Housing Advisory Commission to narrow the initial list of possible strategies to those that are most promising for near-to mid-term implementation and that would benefit from additional consideration to refine and provide additional guidance about how the strategy might best be implemented in Tualatin. Consultant will provide additional information and qualitative and/or quantitative evaluation of up to five strategies. The purpose of this evaluation is to inform whether and how the City should include them in the HPS (e.g. implementation considerations, pros and cons, or discussion of options in how to implement or apply the strategy).

Outreach and Engagement

During the course of Task 3, City and Consultant will conduct outreach to housing producers and service providers to seek input on the potential housing strategies, focusing on those that have been identified as most promising. City will identify housing producers and provide contact information or make initial contact, as determined by City and Consultant. On behalf of the City, Consultant will participate in up to eight interviews or focus groups (to be conducted via teleconference or videoconference) with housing producers (e.g. for-profit housing developers, non-profit housing developers, homeless service providers).

City staff will brief the Planning Commission and City Council as needed and appropriate during the course of Task 3.

Final Strategies

For the strategies that are recommended for inclusion in the City's HPS, the following will be included in a memorandum provided by the Consultant for each recommended strategy, based on input from the City, Consultant's evaluation, and feedback gathered through outreach and engagement:

- *A description of the strategy*
- *Identified Housing Need being fulfilled (tenure and income) and analysis of the income and demographic populations that will receive benefit and/or burden from the strategy, including low-income communities, communities of color, and other communities that have been discriminated against, according to fair housing laws*

- *Approximate magnitude of impact, including (where possible/applicable) an estimate of the number of housing units that may be created, and the time frame over which the strategy is expected to impact needed housing*
- *Timeline for adoption and implementation*
- *Actions necessary for the local government and other stakeholders to take in order to implement the strategy*
- *Opportunities, constraints, or negative externalities associated with adoption of the strategy*

While this will initially be produced as a stand-alone memorandum, it will later become a section of the HPS.

Task 3 City Obligations:

- Identify and help initiate discussions with housing producers; participate in those discussions as appropriate
- Provide information regarding existing incentives and funding sources and background documents summarizing past strategy work

Task 3 City Deliverables:

- Background documents summarizing past strategy work
- Meeting summaries from Housing Advisory Commission meetings
- Schedule of Planning Commission and City Council briefings held

Task 4: Draft and Final Report

The draft Housing Production Strategy Report will include the following:

- *Contextualized housing needs from Task 2*
- *Summaries of existing measures and final proposed strategies from Task 3*
- *How the City's existing measures and final proposed strategies help to achieve fair and equitable housing outcomes, affirmatively further fair housing, and overcome discriminatory housing practices and racial segregation*
- *A conclusion addressing the following:*
 - Discussion of how the proposed actions, taken collectively, will increase housing options for population groups experiencing a current or projected disproportionate housing need.
 - How the City's existing measures and proposed strategies will affirmatively further fair housing, link housing to transportation, provide access in to Opportunity Areas, address needs for people facing homelessness and equitable distribution of services, and create opportunities for rental housing and homeownership, and mitigate vulnerabilities to displacement and housing instability.
 - The rationale for any identified needs not being addressed
 - The City's plan for monitoring progress on the housing production strategies

Following review by City and revisions as needed, Consultant will produce a public review draft Housing Production Strategy for review and comment by the Advisory Committee, Planning Commission, City Council, and interested parties. Advisory Committee comments will be summarized on the draft (if addressing comments would require major updates), or minor updates will be done to the draft following the Advisory Committee review.

Following public review and comment, a Final Housing Production Strategy document will be produced by the Consultant and provided to the City.

Task 4 City Obligations:

- Lead Planning Commission and City Council briefing

Task 4 City Deliverables:

- Meeting summary from Housing Advisory Commission meeting

XI. OTHER CONSIDERATIONS

Except as provided herein, nothing in this agreement shall be construed as obligating the other party to expend funds or obligate future payment of money authorized by law and administratively available for this work.

SIGNATURE BLOCK

City Official

Authorized to sign on behalf of the City

Date

Printed Name

Department of Land Conservation & Development

Jim Rue, Director

Date