

## GUIDELINES FOR THE USE OF RIGHT-OF-WAY FUNDS

Section 10(4) of the METRO Act states, “The amount received under sections 11 and 12 shall be used by the municipality solely for rights-of-way related purposes. Rights-of-way purposes does not include constructing or utilizing telecommunication facilities to serve residential or commercial customers.”

Some uses of METRO Act funds are obviously allowable and others are obviously not allowable. The following lists some examples of applicable and non-applicable uses of right-of-way funds:

A. Applicable Uses include:

1. Administrative expenses: Expenses related to the administration of the METRO Act provisions, including:
  - Engineering costs related to rights-of-way purposes
  - Consulting costs related to rights-of-way purposes
  - Cost-allocated management costs related to rights-of-way purposes
2. Public rights-of-way maintenance, Repairs, Improvements: The following list applicable uses of projects that must occur in municipalities, or contiguous areas, performed by the municipality or by arrangements with another public body that owns the public rights-of-way area for which METRO Act funds are to be used.
  - *Blighted Trees; Treatment:* removal of blighted/diseased trees from the public rights-of-way; and to replace sidewalks damaged by trees in public rights-of-way.
  - *Dust Control:* Public rights-of-way dust control.
  - *Street Lights:* Public street lighting installation and expenses for rights-of-way purposes, including electricity for lighting in the public right-of-way.
  - *Snow Removal:* Public rights-of-way snow removal for rights-of-way purposes.
  - *Unimproved Areas:* Maintenance of the unimproved area of a public right-of-way (i.e., trimming and cutting of trees and brush).
  - *Sidewalks/Bike Paths:* Construction and maintenance of sidewalks and bike paths within the public rights-of-way.

- *Noncommercial Telecom Facilities:* Construction or utilization of telecommunication facilities within the public rights-of-way to serve noncommercial governmental interests.
- *Signage:* Signage in public right-of-way, i.e., neighborhood watch signs, welcome signs, etc.
- *Equipment:* Equipment purchases used strictly for rights-of-way purposes, i.e. portable scales used to keep overloaded trucks off public right-of-way.
- *Trees:* Purchase and planting of trees, shrubs and flowers in public right-of-way

#### Uses Regarding Non-Owned Public Rights-of-Way

In recognition that in some smaller municipalities, often the municipality do not own all the public rights-of-way traversing through or immediately contiguous to the municipality; or have standing arrangements with other public bodies, particularly counties, that may own public rights of way inside the municipality. A municipality may use the METRO Act funds to improve and/or maintain public (excluding federal or state owned) rights-of-way that meet the following criteria:

- The public right-of-way to be improved/maintained traverse through or is immediately contiguous to the municipality.
- The municipality must demonstrate that the expenditure promotes the public health, safety, welfare, convenience, and prosperity of the municipality per Section 1(i) of the METRO Act.
- The expenditure must be adequately identified and documented.

#### B. General Non-Applicable Uses

1. Capital improvements not used for public right-of-way purposes, such as installing light pole fixtures.
2. Non-right-of-way related regular payroll/administrative expenses, unless supported by an acceptable cost allocation methodology.
3. Equipment purchases, unless shown to be used primarily for rights-of-way maintenance.
4. Private road construction and maintenance.

C. Strictly Non-Applicable Uses

1. Constructing or utilizing telecommunication facilities to serve residential or commercial customers for compensation.
2. Non-public right-of-way construction or maintenance.

The above listed examples are not meant to be exclusive/inclusive of all possible situations.

D. Negative Carry Forward of METRO Funds

Any negative carry forward balance is limited to an amount not to exceed the total amount of funds received in the current reporting year.

If you have any questions or need assistance in determining the applicable use of and reporting of right-of-way funds, please contact the [METRO Authority](#).

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