

A resolution approving a professional service contract (PSC) shall include the PSC number, the name of the entity that is being contracted with, the amount of the PSC, which department of the Metro Government has asked for the PSC, what services will be rendered under the contract, the effective dates of the contract and whether the contract is a renewal PSC or not.

Copies of all personal service contracts passed by the Council will be filed with the Resolution approving same in the Clerk's office and logged in the Personal Service Contract log.

Council personal service contracts shall be negotiated by the President and approved by a majority of the Council and signed by the mayor. A vote by the majority of the Council can cancel a contract.

### **Section 3. NEIGHBORHOOD DEVELOPMENT FUND (NDF) AND CAPITAL INFRASTRUCTURE FUND (CIF)**

*In addition, Section 6 of the Rules of the Metro Council outlines the specifications and form for ordinances and resolutions.*

**1. Neighborhood Development Fund (NDF)** - The Neighborhood Development Fund is established in the Operating Budget each fiscal year to complete projects/programs in Council Districts or Louisville/Jefferson County. Each council member is appropriated the same level of funding. Funds not allocated during a fiscal year will not carry over into the next fiscal year unless requested by the Council member to the Office of Management and Budget before the end of the fiscal year or unless agreed upon in the Budget Ordinance.

#### **A. Guidelines to Expend Funds from NDF**

The Council member submits the request to the Appropriations, NDFs and CIFs Committee for consideration before commitment of the funds and before the event takes place if possible.

The Council member may request expending NDF in the following ways:

- capital and operating grants to eligible non-profits defined under the Internal Revenue Code Sections:
  - 501(c)3 Organizations
  - 501(c)4 Organizations (Civic Leagues, Social Welfare and Neighborhood Associations only)
  - Homeowner Associations not recognized tax exempt under section 501(c), but who consistently file Form 1120-H, U. S. Income Tax Return for Homeowners Associations;
  - Section 501(c)6 Organizations (Business Leagues only)
  - Section 501(c)19 Organizations (Veterans)
- Operating projects/programs of Metro government departments/agencies
- Capital or operating projects/programs of other governmental entities

- Transfer to council member's operating cost center accounts, limited to \$25,000 per fiscal year. The ordinance transferring the NDF to cost center accounts must contain detail of the amounts being added to each budget line, ie. personal, printing, mailing, etc.
- Transfer to council member's capital infrastructure fund
- Council originated NDF

Council member's operating cost center funds cannot be transferred to a NDF or CIF account.

The Council may expend NDF grants to organizations which provide services, programs or projects the Council member determines meets critical human needs, improves the quality of life for Louisville Metro citizens or is in the best interest of the district or community. Each request for the use of funds shall explicitly state their purpose and use. Expenditures may only be used to serve Louisville/Jefferson County.

A short form council originated NDF may be used to fund items such as sponsoring luncheons. Council originated NDFs are approved by the Appropriations, CIF and NDF Committee.

### **Eligible and Ineligible Activities**

Eligible activities include, but are not limited to:

- one-time capital expenditures (such as computer equipment, infrastructure repairs)
- direct client services (such as rent assistance)
- any Metro department/agency service (such as park playground equipment)
- general operating
- community events
- constituent meals or refreshments as part of an event whereby volunteers are performing a public service and/or actively participating in their community regardless of their limitations, whether physical or mental
- meals provided to persons for emergency sustainability

Ineligible activities include, but are not limited to:

- direct appropriations to property owners/residents to improve private property
- personal gifts
- alcoholic beverages
- mileage reimbursement paid to local staff or volunteers for use of their personal automobile
- membership dues or subscriptions for periodicals
- out of town staff training including travel
- sales tax for 501(c)3 applicants
- capital improvements to faith based organizations
- funding to another taxing district for its statutorily required expenditures
- cash payments/incentives (excluding de minimis) to individuals
- employee bonuses or severance pay
- rent and depreciation for property owned by the organization

**Expenditures are for Public Purpose only**

Generally, the objective of public purpose is for the promotion of public health, safety, general welfare, security, prosperity, or contentment of residents within the jurisdiction of the Metro Louisville. A public expenditure must be primarily for the benefit of the general public, but the fact that it incidentally benefits others, including private parties, does not make it unacceptable. A public expenditure may be made through a private group or individual, and it does not lose its public character when it is administered in that manner. Council members are encouraged to seek informal advice or a formal opinion from the County Attorney's office for an NDF in any amount if there is a doubt concerning public purpose. County Attorney Office Memoranda dated March 19, 2009, The Public Purpose Requirement for the Appropriation of Public Funds under Kentucky law; October 15, 2004, Guidelines for Educational Appropriations; September 22, 2004, Appropriations for Educational Purposes; April 27, 2010, Appropriations to Churches and Religious Organizations; August 27, 2009, Appropriation of Public Funds; and June 14, 2011, NDF/CIF Funds Expenditures; are specifically incorporated by reference into these Policies and Procedures. Further, the public purpose, grants to taxing districts, grants to churches, grants to private schools, grants to improve private property, and grants involving "cash" or "personal gifts" sections of the Metro Council NDF/CIF/Cost Center Training Manual are also incorporated by reference into these Policies and Procedures.

**Constitutional Constraints**

The Commonwealth of Kentucky has established many taxing districts and defined the services required to be funded with the collected taxes. Metro Government may not appropriate funding to other Jefferson County taxing districts for services the taxing districts are required to provide their constituents. This is the case because these taxing districts must use their own taxes to finance their programs and projects. In some circumstances NDF funds can be indirectly applied to taxing districts if and only if they benefit the collective public purpose and not simply a purpose specific to the individual district. Under current and applicable Kentucky law, expenditures may be made to incorporated cities within Louisville Metro only if the expenditure qualifies under the Metro Partnership Program as set forth in LMCO § 97.100. Taxing districts include but are not limited to Transit Authority of River City, Jefferson County Public Education, fire districts and all small cities. Public school funding may not be given directly to the school. Funding may go to Jefferson County Public School Foundation, a PTA or other non-profit organization affiliated with the receiving school.

The Commonwealth of Kentucky also follows the Federal Constitution of the separation of church and state. Therefore, NDF may not be used to fund any church or religious organization in the furtherance of its religious purpose unless all funds received are applied completely to a project or program that serves a public purpose, is completely open to all members of the public regardless of organization membership or faith/moral beliefs, and involves no form of worship or religious practice. Any issue involving church and state has great potential to become controversial so care must be taken to ensure the money is being used for a secular purpose. As such, if NDF funds are granted

to a religious organization there must be a signed statement from the organization acknowledging this limitation secured prior to disbursement of funds.

Public funds cannot be appropriated for private use, therefore any appropriation of NDF funds for use and improvement of private property is illegal and inadmissible. If a project or program whose primary benefit is for the public good also happens to benefit a private individual or organization it can still legally receive NDF funds.

Public funds cannot be used to make personal gifts because this appropriation will not result in a reciprocal benefit for the public or the government e.g. buying flowers for sick constituent or a special occasion. Public funds cannot be used for cash grants, even if it is for 'needy families.' If a family or individual is in need they must use Metro-established avenues such as social service agencies to obtain necessary funding.

### **Good Standing**

A registered eligible 501(c) non-profit organization must be in good standing with:

- the Kentucky Secretary of State;
- the Louisville Metro Revenue Commission;
- Louisville Metro Government Department/Agencies who also have grants with the non-profit organization;
- Internal Revenue Service; and
- Human Relations Commission

If a non-profit organization has applied but not yet received an IRS determination letter, it is eligible to apply for NDF funding and may submit its Articles of Incorporation and the IRS application for exempt status (on a one time basis). However, a non-profit organization not formally recognized as exempt by the IRS must furnish their most recent annual Statement of Earnings and the most recent IRS Form 990 or IRS Form 1120-H annual filing. The Corporate Articles of Organization must contain tax exempt language as defined in the IRS Publication 557, Tax-Exempt Status for Your Organization.

### **Grantee/Subrecipient Appropriations**

If a grantee organization provides Metro funding to a sub grantee or recipient, both organizations fall under Metro policies, procedures, however the grantee organization is ultimately responsible and accountable for complying with the grant requirements. The grantee is required to monitor the performance of the third party (sub-grantee) by ensuring the project or program was properly completed and the appropriate reports and expenditure documentation is provided to the Office of Management and Budget as a condition of the grant.

## **B. Eligible Non-Profit Organization Grant Requirements**

The organization has an Affirmative Action/Equal Employment Opportunity plan and/or policy statement if required to do so.

The organization may not discriminate based on age, color, race, disabled status, sexual orientation, national origin, religion, sex, or veteran status.

Metro funds generally are not used to supplement more than 33% of the total agency operating budget. The 33% guideline is not applicable for capital projects or special one-time projects not in the general operating budget.

The organization may not require clients receiving services or project participants to participate in religious, political, fraternal, etc. activities in order to receive services or participate.

Any Council member, legislative assistant or family member of a Council member or legislative assistant must disclose any relationship with any requesting organization including Metro Government agencies. No such persons shall serve a grant recipient as an officer or have the fiduciary authority to sign checks or other documents on behalf of the grantee.

The organization agrees to participate in any required training.

The organization agrees to adhere to all terms of agreements/contracts set forth within the NDF application or agreement.

The organization agrees to be audited and/or monitored on site by the appropriate agency personnel to determine appropriate expenditure of funds and/or record keeping.

The organization agrees to submit any required written financial, program, or other monitoring reports timely.

The organization publicly acknowledges the funding is provided by Louisville Metro Council and may also acknowledge the individual Council member in its publicity and informational material.

The organization agrees to expend funds by the end of the fiscal year or extension date of the grant agreement for purpose(s) stated in grant proposal. Automatic extensions are given by Office of Management and Budget to entities receiving their grant check after April 1 in the fiscal year. Requests for extensions are also considered if the entity cannot spend funds for an extenuating circumstance through a written agreement prepared or approved by the County Attorney's Office.

Organizations expending funds prior to the execution of the grant agreement do so at their own risk. Louisville Metro is not liable for NDF related expenses incurred until the grant agreement is executed unless the application specifically requests reimbursements; however, reimbursement should not be made for expenditures prior to the NDF Application date absent demonstration of an emergency by the primary sponsor. NDF request to appropriate funds to Metro/Agencies to cover expenses for non-profit organization's event, activity or project must contain adequate documentation from the

non-profit organization describing the event, activity or project. NDF requests must also contain evidence of the non-profit's request to fund the expenses prior to the event, activity or project or demonstrate an emergency by the primary sponsor as to the reason(s) for payment after the event, activity or project has occurred or been completed.

After the NDF application has been approved by Metro Council, a grant agreement is mailed to the organization by the Metro Clerk within ten business days of the approval and an email notification is sent to the primary sponsor. If the grant agreement is not received by the Metro Clerk within 90 days of initial mailing, the Council approval is automatically revoked without any further action of the Appropriation Committee or full Council. Any organization's grant agreement mailed before the enacted date of this policy change will be sent a letter by the Clerk informing the applicant of this change and give them 90 days from that mailing date to submit their grant agreement.

The Metro Clerk will prepare and submit the NDF request packet which includes the grant agreement, NDF application and supporting documentation to OMB within seven days of receipt.

NDF funds shall not be provided to Neighborhood Associations, Homeowners Associations or similar citizen groups for lawn maintenance or mowing private, nongovernment owned property unless all the following criteria are met:

- The property has been assigned or referred for cutting by either Department of Codes and Regulations or Metro Public Works. A lien has been or shall be filed.
- Anyone paid for mowing grass or maintaining property must provide: proof of insurance directly from their insurance agent, proof that they are registered with the Louisville Revenue Commission. In the event that the use of chemicals is necessary in performing grass mowing or property maintenance, any person(s) who uses such chemicals shall be certified to use such chemicals as required by the Kentucky Department of Agriculture's Division of Environmental Services.
- Must keep records of all properties maintained, service dates and person(s) paid for work for the entire year. Documents must be available for review by Metro Government and its Internal Auditor and must be part of any future grant requests sought from Metro Government within the next four years.

The organization agrees to return any unexpended funds to Louisville Metro Government after the end of the grant period (as extended) stated in the grant agreement. The returned funds are credited to the Council Member's NDF account originally funding the request.

Funding for start-up organizations is discouraged. All organizations should be able to prove long term viability before receiving NDF funding.

### **C. Preparing an NDF Ordinance**

An ordinance is required to allocate funding by one or more Council members over \$5,000 to any one project/program within an organization in the same fiscal year. The required ordinance format is:

- The title – (a) sets out the level of funding; (b) identifies the account to be charged; (c) indicates the assigned department/agency; (d) identifies the purpose of the allocation; and (e) identifies the requesting organization (using the exact name of the organization as registered with the IRS).
- The sponsor – Directs the Office of Management and Budget to draw the funds from the appropriate NDF account.
- Section 1 – Repeat of the title
- Section 2 – Declares the funds will be used for a public purpose
- Section 3 – The effective date of the ordinance
- Signature approval lines- Lined spaces for the Council President, Council Clerk, Mayor and the County Attorney, as well as the date approved by the Mayor

#### **D. Documentation Requirements**

NDF Request Form, Non-Profit Application and internal forms such as checklists are maintained on the Council shared network drive. The request forms, application and the NDF application checklist (revision date December 2, 2011) are updated and approved by the Appropriations, NDFs and CIFs Committee and may or may not be the same application used by the Administration's External Agency Task Force.

In order to be considered by the Appropriations, NDFs and CIFs Committee, the signed request and all supporting documentation are submitted to the Clerk's office by 12:00 PM on the Monday prior to a regular Council meeting.

All disclosure forms shall be signed by the person completing the forms and may not be signed by another person, even with consent.

All disclosure and review forms which require a Metro Council member's signature shall be thoroughly read by the Metro Council member and shall be signed by the Metro Council member unless such Council member authorizes such signature in writing, e-mail or facsimile (fax).

The authorization for a third party to sign NDF or CIF for the Council member if multiple NDF/CIFs are up for the same meeting can be compiled in one document listing each NDF/CIF.

An ordinance is required if funds are requested to be moved between the operating budget and the capital budget. Preparation of NDF ordinance is requested of the Office of Management and Budget and forwarded to the County Attorney's Office.

#### **E. Grant Administration/Monitoring**

Grant administration to non-profit organizations is the responsibility of the Office of Management and Budget. OMB's current procedures are used to administer and monitor the grants with some flexibility in approving amendments to the budget approved by the

Metro Council. Some situations require additional approvals by the Metro Council and will be processed as follows:

- **Funding cannot be spent as originally approved by Council** – If the funding cannot be spent as approved, spending the money in a related, comparable way may be approved by the primary sponsor with agreement from every other sponsor of the grant, the Appropriations, CIF and NDF Committee Chair, Appropriations, CIF and NDF Committee Vice-Chair and the Council President. As an alternative, the grant may be reconsidered by the Appropriations NDF and CIF Committee at the request of any sponsor.
- **Approved funding is less than the original request** – If the original grant request was not fully funded, any combination of Metro expenditures in the original grant budget may be funded, if not otherwise restricted by the Appropriation NDF & CIF Committee.
- **Amendment request not in the original grant** – If the amendment requested is not contained in the original grant, the grant should be closed and a new grant request submitted by the grantee.

The Office of Management and Budget provides a copy of the final grant report to the Clerk's office who tracks open grants and provides a copy of the report to the primary sponsor of each grant.

Responsibilities are outlined in (1) and (2) below.

**(1) Expending Neighborhood Development Funds to a Non-Profit Organization**

<b>Responsible Party</b>	<b>Process Description</b>
Organization	Contacts Council member regarding need.
Council member	Forwards Application (located on Council shared drive) to organization for completion.
Organization	Returns completed Application with required supporting documentation to Council member.
Council member	<ul style="list-style-type: none"> <li>- Reviews request, verifies completeness of Application and supporting documentation, decides level of funding to be requested if any.</li> <li>- Prepares Request Form and checklist and initiates an ordinance if the proposed funding is greater than \$5,000.</li> <li>- Submits request by noon on the Monday before the regularly scheduled Council meeting to the Clerk's office to be added to the Council agenda or the Appropriations, NDFs and CIFs Committee agenda.</li> </ul>
Clerk's office	<p>After review, places requests greater than \$5,000 on Council Agenda with ordinance.</p> <p>After review, places requests of \$5,000 or less on Appropriations, NDFs and CIFs Committee's agenda.</p>
Appropriations, NDFs and CIFs	Considers/approves request. The original requestor or their designee must be present to discuss requests of \$5,000 or more.



Committee/Council	
Clerk's office	If an ordinance is approved in Committee, the Clerk's office places it on the Council agenda for second reading.
Council	Considers/approves second reading.
Clerk's Office	Mails grant agreement to organization within ten business days of approval. Submits the NDF request packet including the grant agreement, NDF application & supporting documents to OMB within seven days of receipt.
Office of Management and Budget	If approved by the Appropriations, NDFs and CIFs Committee or the Council, the Office of Management and Budget administers the grant by tracking and monitoring the transactions to final disbursement and reconciliation in accordance with their current Neighborhood Development Grant Policies and Procedures. A copy of the final grant report is provided to the Clerk's office for tracking and forwards a copy to the primary sponsor. If funds remain or are returned by grantee, the Council member's NDF account is credited for those funds.

**(2) Expending Neighborhood Development Funds to a Metro Department/Agency or other government entity**

<b>Responsible Party</b>	<b>Process Description</b>
Council member	Determines type and scope of work to be completed. Requests department/agency detailed estimate.
Department/Agency	Prepares detailed estimate for Council member.
Council member	If funding is desired, submits the request by noon on the Monday before the regularly scheduled Council meeting to the Clerk's office to be added to the Council agenda or the Appropriations, NDFs and CIFs Committee agenda.
Clerk's office	After review, places on Council Agenda for first reading if the NDF is over \$5,000. After review, places the requests of \$5,000 or less on the Appropriations Committee's Agenda.
Appropriations, NDFs and CIFs Committee/Council	Considers/approves request. The original requestor or their designee must be present to discuss requests of \$5,000 or more.
Clerk's office	If an ordinance is approved in Committee, the Clerk's office places it on the Council agenda for second reading.
Council	Considers/approves second reading.
Clerk's office	If approved by the Appropriations, NDFs and CIFs Committee or Council, forwards copy of completed NDF Request and Application to the Office of Management and Budget for grant administration.
Department/Agency	Office of Management and Budget processes a budget adjustment Receiving Department schedules work for

	completion. Receiving Department notifies Council member when the work begins. At the end of the project, receiving department notifies Council member of all disbursements and remaining balance.
Council member	If funds remain or are returned by grantee, the Council member's NDF account is credited for those funds.

**2. Capital Infrastructure Fund (CIF)** - The Capital Infrastructure Fund (CIF) is established in the Capital Budget each fiscal year to complete projects/programs in Council Districts or Louisville/Jefferson County. Each Council member is appropriated the same level of funding. Funds not appropriated during a fiscal year carry over into the next fiscal year.

#### **A. Guidelines to Expend/Transfer Funds from CIF**

Beginning July 1, 2005, the Council member submits the Request Form to the Appropriations, NDFs and CIFs Committee for consideration before any funds from the FY06 and all future year Capital Budgets can be expended if required in the Budget Ordinance. If not required in the Budget Ordinance, only funds that are not specifically identified in the Budget Ordinance must be presented to the Appropriations, NDFs and CIFs Committee. FY04 and FY05 CIF must be reallocated to other projects through a Budget Ordinance Amendment.

The Council member may request expenditure of CIF for:

- Metro government department/agency for specific projects
- Other governments for specific projects
- Council member may move CIF to NDF through an ordinance submitted and approved by the Metro Council

Each request for funds shall explicitly state their purpose and use.

Expenditures are for public purpose only. Generally, the objective of public purpose is for the promotion of public health, safety, general welfare, security, prosperity, or contentment of residents within the jurisdiction of the Metro Louisville. A public expenditure must be primarily for the benefit of the general public, but the fact that it incidentally benefits others, including private parties, does not make it unacceptable. Council members are encouraged to seek opinion from the County Attorney's office if there is a doubt concerning public purpose.

Expenditures may only be used to serve Louisville/Jefferson County.

#### **B. Documentation Requirements**

CIF Request Form is maintained on the Council shared network drive. The Request Form and Application are designed by the Appropriations, NDFs and CIFs Committee.

In order to be considered by the Appropriations, NDFs and CIFs Committee, all items (including all supporting documentation) are submitted to the Clerk's office by 12:00 PM on the Monday prior to a regular council meeting.

Any Appropriations, NDFs and CIFs Committee member may request the CIF application be added to the next Council meeting as a special item for consideration.

### **C. Administration/Monitoring**

The CIF request and application forms are defined by the Appropriations, NDFs and CIFs Committee. Grant administration is the responsibility of the Clerk's Office.

Responsibilities are outlined below.

### **Expending Capital Infrastructure Funds to a Metro Department/Agency or other Government Entity**

<b>Responsible Party</b>	<b>Description</b>
Council member	Determines type and scope of work to be completed. Requests agency detailed estimate.
Department/Agency	Prepares detailed estimate for Council member.
Council member	Approves estimate and submits to the Clerk's Office the completed Request Form by 12:00 Noon on the Monday before a regularly scheduled Council meeting.
Clerk's office	After review, places item on Appropriations, NDFs and CIFs Committee agenda.
Appropriations, NDFs and CIFs Committee	Considers/approves request. Any member of the committee may request the original CIF application be added to the next Council meeting agenda as a special item for consideration. The original requestor or their designee must be present to discuss requests of \$5,000 or more.
Clerk's office	If requested by member of Appropriations, NDFs and CIFs Committee, places the CIF application on the next Council meeting as a special item for consideration.
Council	Considers/approves request.
Clerk's office	If approved by Appropriations, NDFs and CIFs Committee or Council, forwards copy of completed CIF request to the Office of Management and Budget who prepares the budget adjustment transferring the funds from the council to the appropriate department.
Office of Management and Budget	Processes the budget adjustment for the project and forwards the information to the Council Member.
Department/Agency	Schedules work for completion. Notifies Council Member when the work begins. At the end of the project, notifies the Council Member of all disbursements and any remaining balance.

	Prepares a budget adjustment to move remaining funds to the appropriate Capital Infrastructure Fund.
Office of Management and Budget	Processes a budget adjustment moving remaining funds to the appropriate Capital Infrastructure Fund and provides notification of the budget adjustment to the Council.

### **3. NDF and CIF Training**

A training session for all Appropriation, NDF and CIF Committee members is held during January each year. It is recommended that Council members and their legislative aides attend an annual training session on the procedures that govern the administration of NDF and CIF. The Training Manual is approved prior to the training by the Appropriations, CIF and NDF Committee and is incorporated by reference into these Policies and Procedures.

### **Section 4. COUNCIL PUBLIC HEARING**

The Council will occasionally hold public hearings to gather input, hear reaction and provide information to the public. Hearings may be called by the President of the Council, a majority of a committee, or a Committee chair, and will be coordinated and staffed by Council staff. Hearings called by an individual council member will be deemed a fact-finding meeting, and will be staffed by the council member's legislative assistant. There are additional requirements if the council decides to hold a public hearing on a zoning case. Zoning related hearings must adhere to applicable KRS (and/or) relative code of ordinance(s). (See Appendix F-Sample Public Hearing Script)

### **Section 5. BOARDS AND COMMISSIONS**

The Contracts/Appointments Committee shall assist in finding qualified candidates for referral to the mayor for service on Metro Government Boards and Commissions.

The Contracts/Appointments Committee is responsible for seeing that Board and Commission appointments reflect geographic or district balance and socio-economic, cultural, gender diversity, and any other requirement specific to a particular board of commission.

Council members wishing to submit nominees for appointment should submit them to the chair of the Contract/Appointment committee. It will be the responsibility of the Contracts/Appointments Committee to submit nominees for vacancies on boards and commissions to the Mayor. The Mayor's Office shall notify the Contracts/Appointments committee of upcoming vacancies on Boards and Commissions at least 4 to 6 weeks in advance of the expiration of a current term, or anticipated vacancy. When the Mayor makes his selection he/she shall submit nominee(s) for introduction by letter to be read at a regular council meeting as Communications from the Mayor. The nominee(s) shall be referred to the Contracts/Appointments committee for approval and referral back to the council for a 2<sup>nd</sup> reading and approval.