

RESOLUTION NO. 031, SERIES 2020

**A RESOLUTION REPEALING AND REPLACING SECTION 3 OF THE LOUISVILLE METRO COUNCIL POLICIES AND PROCEDURES CONCERNING NEIGHBORHOOD DEVELOPMENT FUNDS AND CAPITAL INFRASTRUCTURE FUNDS (AMENDMENT BY SUBSTITUTION).**

**SPONSORED BY: PRESIDENT JAMES AND COUNCIL MEMBER BLACKWELL**

**WHEREAS**, the Louisville Metro Council ("Council") adopted Policies and Procedures on March 17, 2003, and amended such Policies and Procedures several times with the last revision being made in August 2019;

**WHEREAS**, Section 3 of the adopted Policies and Procedures provides information regarding Neighborhood Development Funds and Capital Infrastructure Funds; and

**WHEREAS**, the Council wishes to repeal and replace Section 3 of the Policies and Procedures to reflect current practices, and to amend the Table of Contents to reflect the necessary changes.

**NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT ("COUNCIL") AS FOLLOWS:**

**SECTION I:** The Council hereby repeals Section 3 of the Policies and Procedures and replaces it with the following:

**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 (OMB) before the end of the fiscal year or unless agreed upon in the subsequent Budget Ordinance.

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

An eligible organization contacts the Council member requesting funding for their project(s) and/or program(s). If the Council member agrees to sponsor the organization's request, the Council District provides the organization with the latest version of the NDF Application, NDF Application Instructions, W-9 Form, Faith Based Organization Certification Form if applicable, NDF Training Presentation, and NDF Attestation and Questionnaire Form. The organization's current representative is required to review the NDF Training Presentation, then complete and submit the NDF Attestation and Questionnaire Form to OMB, and complete and submit the NDF Application, W-9 Form, Faith Based Organization Certification Form if applicable, and other required supporting documentation to the Council District's office.

The organization's representative may sign, initial, and date the NDF Application electronically or manually.

The Council District reviews the submitted NDF Application, W-9 Form, and Faith Based Organization Certification Form for accuracy and completeness, correct form version, and required supporting documents using the latest version of the NDF checklist. The Council District informs the organization of any missing or incorrect information/documents and requests the organization to make the corrections and submit the corrected pages to the Council District's office.

Upon receipt of a complete NDF Application, W-9 Form, and other required supporting documents, the Council District completes the NDF Not-for-Profit Transmittal and Approval Form, finalizes the NDF Checklist, prints the current Kentucky Secretary of State nonprofit's Good Standing status, and processes the request through the Clerk's Metro Council Legislative Management System based on current procedures. The original signed hard copy of the application packet is hand delivered to the Clerk's office.

The Council District submits the request to the Appropriations 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. The ordinance transferring the NDF to cost center accounts must contain detail of the amounts being added to each budget line, i.e., 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.

In the event a new Council member takes office via election, the Metro Council President will consult with the Metro Council Business office for an accounting of the residual amount of unappropriated funds on hand in the new Council member's NDF account. The pro-rated allocated share is determined by dividing by twelve the total amount of money allocated by Louisville Metro Government to the district for the most recent fiscal year then multiplying the figure by the number of months remaining in said fiscal year. If the total residual amount of unappropriated funds in the district's NDF account of the Council member is less than the pro-rated allocated share for the most recent fiscal year and in the event of an emergency or unforeseen natural disaster, the Metro Council President with approval of a majority of the Committee on Committees, shall transfer funds, not to exceed \$20,000.00, if available, from the Metro Council's General Account to the new Council member's NDF account to cover the expenses to handle such emergency or unforeseen natural disaster.

If a Council member's term ends before the completion of the fiscal year, the Council member must leave at least half of the current fiscal year's appropriation (i.e. \$37,500 in FY 2019) in the Council District's NDF account.

The Council may approve 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 sponsorship of fundraisers or other community events. The amount funded must be offered to other sponsors or participants and no Council member may fund more than the published sponsorship levels or published ticket prices offered to the general public. The Council member is required to provide a list of the people whose admission will be paid by the expenditure within the request. The request must contain an event flyer and/or details regarding

how the event was publicized. If the event is a fundraiser, the Council member is required to provide specific disclosure of how the net proceeds of the fundraiser will be used. The proceeds must be used on costs the Council could fund directly under their current policies.

### **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
- general operating
- community events including advertisement costs of the event
- 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

NDF funds cannot support a fundraiser or fundraiser event if the proceeds from the fundraiser will be used for programs/projects that could not be funded in accordance with the Metro Council Policies and Procedures directly. For instance, if an organization does a fundraiser and all the proceeds were to be given to a faith based organization to purchase religious materials, the Council would be precluded from supporting any part of the fundraiser.

### **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 September 14, 2018, Expenditure of Funds for Minor Maintenance of Private Roads; September 4, 2018, Impact of Trinity Lutheran v. Comer on NDFs; January 13, 2017, NDFs to Separate Taxing Districts; January 13, 2017, NDFs to Separate Taxing Districts; 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 following prior to receiving NDF funds:

- Kentucky Secretary of State;
- Louisville Metro Revenue Commission;
- Louisville Metro Government Departments/Agencies who also have grants with the non-profit organization;
- Internal Revenue Service; and
- Louisville Metro 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). The Corporate Articles of Incorporation 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 OMB as a condition of the grant.

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

If the organization has an Affirmative Action/Equal Employment Opportunity plan and/or policy statement, it must be submitted as required supporting documentation within the NDF Application packet.

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 subsequent grant 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 OMB 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 sent to the organization by the Metro Clerk within ten business days of the approval and notification is sent to the primary sponsor. The Clerk's office maintains a listing of approved NDF status on the Council's shared drive. If the grant agreement is not received by the Clerk within 90 days of initial mailing, the Council approval is automatically revoked without any further action of the Appropriations Committee or full Council.

Upon receipt of the completed, signed grant agreement within the 90 days period, the Clerk forwards the NDF grant agreement, NDF application and supporting documentation to the appropriate authority in OMB in accordance with OMB's current policy within seven days of receipt for further processing.

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, and 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 Jefferson County Attorney's office prepares the NDF ordinance on behalf of the Council



member once the Council member enters the NDF request information into the Clerk's Metro Council Legislative Management System.

OMB prepares ordinances transferring funds between NDF, CIF and/or Cost Center regardless of the amount being transferred.

#### **D. Form Maintenance and Documentation Requirements**

All forms required for administration of the Appropriation Committee are updated and approved by the Appropriations Committee.

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

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

An ordinance is required if funds are requested to be moved between the operating budget and the capital budget. The Council member or legislative assistant submits a written request to the Council finance staff requesting to transfer funds. The Council finance staff confirms the Council has significant NDF or CIF funds available, then the finance staff emails OMB staff requesting the preparation of an NDF ordinance for the transferring of the funds. When prepared, OMB staff enters the ordinance into the Clerk's Metro Council Legislative Management System and forwards it to the County Attorney's office for legislative review and approval. Then the ordinance is forwarded to the Council District for final approval.

In the event a Council District needs to request a prior Appropriation Committee approved **ordinance** be amended or rescinded, the Council District shall have a **new** ordinance prepared documenting the reason for the amendment to the initial approved ordinance or the reason for rescinding the initial approved ordinance. The Council District shall submit a copy of the initial approved ordinance appropriation packet and a written explanation for the amendment or rescinded request to the Clerk's office on the Monday before the regularly scheduled Council meeting.

In the event a Council District needs to request a prior Appropriation Committee approved **NDF for \$5,000 or less** be amended or rescinded, the Council District shall submit a copy of the initial approved appropriation packet and a written explanation for the amendment or rescinded request to the Clerk's office on the Monday before the regularly scheduled Council meeting.

**E. Grant Administration/Monitoring**

Grant administration to non-profit organizations is the responsibility of OMB. 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 Committee Chair, Appropriations Committee Vice-Chair and the Metro Council President. As an alternative, the grant may be reconsidered by the Appropriations 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 Appropriations 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.

OMB provides an NDF Monthly Noncompliant Report to Metro Council members and staff, Clerk's office and Council finance staff. If OMB determines that an external organization has been noncompliant for two consecutive fiscal years, then the organization's NDF Grant will automatically be terminated and any remaining budget will be returned to the Council Districts' NDF Restricted account. Metro Departments/Agencies receiving NDF funds report any unused funds at the end of the grant period to OMB and return any unused funds to the Council District's NDF Restricted account.

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 District office  | Forwards NDF Application, NDF Application Instructions, IRS Form W-9, Faith Based Organization Certification Form if applicable, and NDF Attestation and Questionnaire Form to organization for completion and forwards the NDF Training Presentation to the organization for review. |
| Organization             | Returns completed NDF Application, IRS Form W-9, and Faith Based Organization Certification Form if applicable with other required supporting documentation to the Council District's office.   |
| Council District office  | - Reviews request, verifies accuracy and completeness of NDF Application and supporting documentation, decides  |

|                          |  |
|--------------------------|--|
|                          | <p>level of funding to be requested if any.</p> <ul style="list-style-type: none"> <li>- Notifies nonprofit or organization of any needed corrections to the NDF Application and supporting documentation.</li> <li>- Prepares NDF Not-for-Profit Transmittal and Approval Form and NDF checklist and initiates an ordinance if the proposed funding is greater than \$5,000.</li> <li>- If no ordinance required, 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 Committee agenda.</li> </ul> |
| County Attorney's office | <ul style="list-style-type: none"> <li>- Reviews NDF Application as to public purpose and legality if funding more than \$5,000 and requires an ordinance.</li> <li>- Prepares the ordinance and submits it through the Metro Council Legislative Management System to the Council member for approval.</li> </ul>   |
| Council District office  | <ul style="list-style-type: none"> <li>- Approves ordinance and submits NDF packet through the Metro Council Legislative Management System to the Clerk's office and hand delivers the hardcopy of the NDF packet 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 Committee agenda.</li> </ul>  |
| Clerk's office           | <ul style="list-style-type: none"> <li>- Reviews NDF packet for completeness and verifies the Council member or legislative assistant submitted all the required documents along with using the correct version of the forms.</li> <li>- Notifies the Council member and/or legislative assistant of missing or incorrect documentation.</li> <li>- After review, places requests greater than \$5,000 on Council Agenda with ordinance for first reading within the New Business section of the agenda and places requests of \$5,000 or less on Appropriations Committee's agenda.</li> </ul>                    |
| Council District office  | <ul style="list-style-type: none"> <li>- Makes corrections to NDF packet or notifies the nonprofit or organization of any needed corrections or missing documents discovered by the Clerk's office.</li> <li>- Upon receipt of the corrected or missing documents, the Council member or legislative assistant forwards the documents to the Clerk's office.</li> </ul>  |
| Clerk's office           | <ul style="list-style-type: none"> <li>- Scans and uploads the corrected documents to the Appropriations Committee agenda.</li> </ul>  |
| Council finance staff    | <ul style="list-style-type: none"> <li>- Reviews NDF packet for financial compliance.</li> <li>- Notifies the Council member, legislative assistant and Clerk's office of needed corrections and/or obtains needed clarification.</li> </ul>   |

|                                  |  |
|----------------------------------|--|
| Council District office          | <ul style="list-style-type: none"> <li>- Notifies the nonprofit or organization of any needed corrections or missing documents discovered by the Clerk's office or Council financial staff.</li> <li>- Upon receipt of the corrected or missing documents, the Council member or legislative assistant forwards the documents to the Clerk's office.</li> </ul>  |
| Clerk's office                   | -Scans and uploads the corrected documents to the Appropriations Committee agenda.   |
| Council finance staff            | <ul style="list-style-type: none"> <li>- Verifies corrected or missing documents have been received by the Clerk's office prior to the Appropriations Committee meeting.</li> <li>- Prepares and submits the upcoming Appropriations Committee Comments Memo to the Committee members, their legislative assistants, Majority and Minority Caucuses staff, County Attorney's office, Clerk's office and other Council finance staff.</li> </ul>  |
| Appropriations 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 within the Consent Calendar or Old Business section.   |
| Council                          | Considers/approves second reading.   |
| Clerk's office                   | <p>Sends grant agreement to organization within ten business days of approval.</p> <p>Submits the NDF request packet including the grant agreement, NDF application &amp; supporting documents to OMB within seven days of receipt.</p>  |
| Office of Management and Budget  | <p>OMB processes a budget adjustment in order to charge the approved appropriated amount to the Council member's NDF account after the grant agreement has been signed by all required parties.</p> <p>If approved by the Appropriations Committee or the Council, OMB 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.</p> <p>A copy of the NDF Monthly Noncompliant Report is provided to the Clerk's office, Council members, legislative assistants, and Council finance staff. If funds remain or are returned by grantee, the Council member's NDF account is credited for those funds.</p> |

**(2) Expending Neighborhood Development Funds to a Metro Department/Agency or Other Government Entity**

| <b>Responsible Party</b> | <b>Process Description</b>  |
|--------------------------|---|
| Council District office  | Determines type and scope of work to be completed. Requests department/agency detailed estimate and written acceptance of funds.  |
| Department/Agency        | Prepares detailed estimate and provides written acceptance of the funds for Council member.   |
| Council District office  | If funding is desired, submits the NDF City Agency Request, NDF Interagency Checklist, department/agency detailed estimate(s) and written acceptance of funds 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 Committee agenda.  |
| County Attorney's office | <ul style="list-style-type: none"> <li>- Reviews NDF City Agency Request as to public purpose and legality if funding more than \$5,000 and requires an ordinance.</li> <li>- Prepares the ordinance and submits it through the Metro Council Legislative Management System to the Council member for approval.</li> </ul>  |
| Council District office  | -Approves ordinance and submits NDF City Agency Request packet through the Metro Council Legislative Management System to the Clerk's office and hand delivers the hardcopy of the NDF City Agency Request packet 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 Committee agenda.  |
| Clerk's office           | <ul style="list-style-type: none"> <li>- Reviews NDF City Agency Request packet for completeness and verifies the Council member or legislative assistant submitted all the required documents along with using the correct version of the forms.</li> <li>- Notifies the Council member and/or legislative assistant of missing or incorrect documentation.</li> </ul> <p>After review, places requests greater than \$5,000 on Council agenda with ordinance for first reading within the New Business section of the agenda and places requests of \$5,000 or less on the Appropriations Committee's agenda.</p> |
| Council District office  | <ul style="list-style-type: none"> <li>- Makes corrections to NDF City Agency Request packet and/or notifies the Department/Agency entity of any needed corrections or missing documents identified by the Clerk's office.</li> <li>- Upon receipt of the corrected or missing documents, the Council member or legislative assistant forwards the documents to the Clerk's office.</li> </ul>  |

|                                  |   |
|----------------------------------|---|
| Clerk's office                   | -Scans and uploads the corrected documents to the Appropriations Committee agenda.  |
| Council finance staff            | - Reviews NDF City Agency Request packet for financial compliance.<br>- Notifies the Council member, legislative assistant and Clerk's office of needed corrections and/or obtains needed clarification.  |
| Council District office          | - Makes corrections to NDF City Agency Request packet and/or notifies the Department/Agency of any needed corrections identified by the Council financial staff.<br>- Upon receipt of the corrected documents, the Council member or legislative assistant forwards the documents to the Clerk's office.  |
| Clerk's office                   | -Scans and uploads the corrected documents to the Appropriations Committee agenda.  |
| Council finance staff            | - Verifies corrected or missing documents have been received by the Clerk's office prior to the Appropriations Committee meeting.<br>- Prepares and submits the upcoming Appropriations Committee Comments Memo to the Committee members, their legislative assistants, Majority and Minority Caucuses staff, County Attorney's office, Clerk's office and other Council finance staff. |
| Appropriations 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 within the Consent Calendar or Old Business section.  |
| Council                          | Considers/approves second reading.  |
| Clerk's office                   | If approved by the Appropriations Committee or Council, forwards copy of completed NDF City Agency Request packet to OMB for grant administration within seven days of the Appropriations Committee or Council approval.  |
| Department/Agency                | OMB processes a budget adjustment in order to transfer the Council's approved appropriated NDF funds to the Metro Department. Receiving Department schedules work for completion.<br>Receiving Department notifies Council member when the work begins.<br>At the end of the project, receiving department notifies Council District of all disbursements and remaining balance.        |
| Council District office          | If funds remain or are returned by grantee, the Council District's NDF account is credited for those funds.<br>The Council District asks the Metro Department to inform   |

|  |  |
|--|--|
|  | its financial manager to process the paperwork to return the unused funds to the Council District's NDF account after the project/program is completed and all invoices have been paid and purchase orders have been released. |
|--|--|

**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 District submits the CIF City Agency Request Form, CIF Interagency Checklist, department/agency detailed estimated and written acceptance of funds to the Appropriations 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 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. Form Maintenance and Documentation Requirements**

CIF City Agency Request Form and CIF Interagency Checklist are maintained on the Council shared network. The CIF City Agency Request Form and CIF Interagency Checklist are designed by the Appropriations Committee.

In order to be considered by the Appropriations 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 Committee member may request the CIF Agency Request packet be added to the next Council meeting as a special item for consideration.

In the event a Council District needs to request a prior Appropriation Committee approved **CIF** be amended or rescinded, the Council District shall submit a copy of the initial approved appropriation packet and a written explanation for the amendment or rescinded request to the Clerk's office on the Monday before the regularly scheduled Council meeting.

**C. Administration/Monitoring**

The CIF Agency Request packet is defined by the Appropriations 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**

| Responsible Party       | Description  |
|-------------------------|--|
| Council District office | Determines type and scope of work to be completed. Requests agency detailed estimate and written acceptance of funds.  |
| Department/Agency       | Prepares detailed estimate and provides written acceptance of the funds for Council member.  |
| Council District office | Approves estimate and submits the completed CIF City Agency Request Form, CIF Interagency Checklist, department/agency detailed estimate and written acceptance of funds by noon on the Monday before the regularly scheduled Council meeting to the Clerk's office to be added to the Appropriations Committee agenda.  |
| Clerk's office          | <ul style="list-style-type: none"> <li>- Reviews CIF City Agency Request packet for completeness and verifies the Council member or legislative assistant submitted all the required documents along with using the correct version of the forms.</li> <li>- Notifies the Council member and/or legislative assistant of missing or incorrect documentation.</li> <li>- After review, places requests on Appropriations Committee agenda.</li> </ul> |
| Council District office | - Makes corrections to CIF City Agency Request packet and/or notifies the Department/Agency entity of any needed corrections or missing documents identified by the Clerk's office.  |



|                                 |  |
|---------------------------------|--|
|                                 | - Upon receipt of the corrected or missing documents, the Council member or legislative assistant forwards the documents to the Clerk's office.  |
| Clerk's office                  | -Scans and uploads the corrected documents to the Appropriations Committee agenda.   |
| Council finance staff           | - Reviews CIF City Agency Request packet for financial compliance.<br>- Notifies the Council member, legislative assistant and Clerk's office of needed corrections and/or obtains needed clarification.   |
| Council District office         | - Makes corrections to CIF City Agency Request packet and/or notifies the Department/Agency of the needed corrections identified by the Council financial staff.<br>- Upon receipt of the corrected documents, the Council member or legislative assistant forwards the documents to the Clerk's office.   |
| Clerk's office                  | -Scans and uploads the corrected documents to the Appropriations Committee agenda.   |
| Council finance staff           | - Verifies corrected or missing documents have been received by the Clerk's office prior to the Appropriations Committee meeting.<br>- Prepares and submits the upcoming Appropriations Committee Comments Memo to the Committee members, their legislative assistants, Majority and Minority Caucuses staff, County Attorney's office, Clerk's office, and other Council finance staff. |
| Appropriations Committee        | Considers/approves request. Any member of the committee may request the original CIF request 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 Committee, places the CIF request on the next Council meeting as a special item for consideration.  |
| Council                         | Considers/approves request.  |
| Clerk's office                  | If approved by Appropriations Committee or Council, within seven days of the approval forwards copy of completed CIF request to OMB 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 and/or the legislative assistant, Clerk's office, and Council finance staff.  |
| Department/Agency               | Schedules work for completion.<br>Notifies Council member when the work begins.<br>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 member and/or the legislative assistant, Clerk's office, and Council finance staff. |

### 3. NDF and CIF Training

A training session for all Council Districts' legislative assistants is held every two years during January. It is required for the Council Districts' legislative assistants or a representative from the districts, and the Clerk's office representatives who assist with the Appropriations Committee to attend a biennial 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 Committee and is incorporated by reference into these Policies and Procedures.

**SECTION II:** The Table of Contents is hereby amended as follows:

|           |  |           |
|-----------|--|-----------|
| <b>1.</b> | <b>NEIGHBORHOOD DEVELOPMENT FUND (NDF) &amp; CAPITAL INFRASTRUCTURE FUND (CIF)</b>                           | <b>11</b> |
|           | <b>1. NEIGHBORHOOD DEVELOPMENT FUND (NDF)</b>  | <b>11</b> |
|           | A. <i>Guidelines to Expend Funds from NDF</i>  | 11        |
|           | B. <i>Eligible Non-Profit Organization Grant Requirements</i>  | 16        |
|           | C. <i>Preparing an NDF Ordinance</i>   | 17        |
|           | D. <i>Form Maintenance and Documentation Requirements</i>  | 17        |
|           | E. <i>Grant Administration/Monitoring</i>  | 18        |
|           | 1) <i>Expending Neighborhood Development Funds to a Non-Profit Organization</i>                              | 18        |
|           | 2) <i>Expending NDFs to a Metro Dept./Agency or <del>Other</del> <del>Government</del> <del>Entity</del></i> | 19        |
|           | <b>2. CAPITAL INFRASTRUCTURE FUND (CIF)</b>  | <b>20</b> |
|           | A. <i>Guidelines to Expend/Transfer Funds from CIF</i>   | 20        |
|           | B. <i>Form Maintenance and Documentation Requirements</i>  | 21        |
|           | C. <i>Administration/Monitoring</i>  | 21        |
|           | 4) <i>Expending CIFs to a Metro Dept./Agency or other local government entity</i>                            | 21        |
|           | <b>3. NDF &amp; CIF TRAINING</b>   | <b>22</b> |

**SECTION III:** This Resolution shall take effect upon its passage and approval.

  
\_\_\_\_\_  
Sonya Harward  
Metro Council Clerk

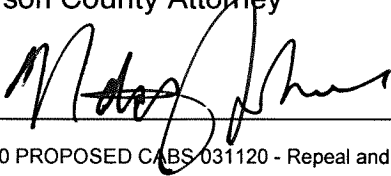
  
\_\_\_\_\_  
David James  
President of the Council

PRO - TEM

March 19, 2020  
Approval Date

**APPROVED AS TO FORM AND LEGALITY:**

Michael J. O'Connell  
Jefferson County Attorney

BY:   
\_\_\_\_\_

**LOUISVILLE METRO COUNCIL  
ADOPTED  
March 19, 2020**

R-029-20 PROPOSED CABS 031120 - Repeal and Replace Sec. 3 of Pol. and Proc.docx