Appendix C:

Regulatory Barriers

FY 2013-2014 Action Plan

Regulatory Barriers

America's Affordable Communities Initiative	U.S. Department of Housing and Urban Development	OMB approval no. 2535-0120 (exp. 6/30/2010)

Public reporting burden for this collection of information is estimated to average 3 hours. This includes the time for collecting, reviewing, and reporting the data. The information will be used for encourage applicants to pursue and promote efforts to remove regulatory barriers to affordable housing. Response to this request for information is required in order to receive the benefits to be derived. This agency may not collect this information, and you are not required to complete this form unless it displays a currently valid OMB control number.

Questionnaire for HUD's Initiative on Removal of Regulatory Barriers

Part A. Local Jurisdictions. Counties Exercising Land Use and Building Regulatory Authority and Other Applicants Applying for Projects Located in such Jurisdictions or Counties [Collectively, Jurisdiction]

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1. Does your jurisdiction's comprehensive plan (or in the case of a tribe or TDHE, a local Indian Housing Plan) include a "housing element? A local comprehensive plan means the adopted official statement of a legislative body of a local government that sets forth (in words, maps, illustrations, and/or tables) goals, policies, and guidelines intended to direct the present and future physical, social, and economic development that occurs within its planning jurisdiction and that includes a unified physical plan for the public development of land and water. If your jurisdiction does not have a local comprehensive plan with a "housing element," please enter no. If no, skip to question # 4.	☐ No	☑ Yes
2. If your jurisdiction has a comprehensive plan with a housing element, does the plan provide estimates of current and anticipated housing needs, taking into account the anticipated growth of the region, for existing and future residents, including low, moderate and middle income families, for at least the next five years?	☐ No	☑ Yes
3. Does your zoning ordinance and map, development and subdivision regulations or other land use controls conform to the jurisdiction's comprehensive plan regarding housing needs by providing: a) sufficient land use and density categories (multifamily housing, duplexes, small lot homes and other similar elements); and, b) sufficient land zoned or mapped "as of right" in these categories, that can permit the building of affordable housing addressing the needs identified in the plan? (For purposes of this notice, "as-of-right," as applied to zoning, means uses and development standards that are determined in advance and specifically authorized by the zoning ordinance. The ordinance is largely self-enforcing because little or no discretion occurs in its administration.). If the jurisdiction has chosen not to have either zoning, or other development controls that have varying standards based upon districts or zones, the applicant may also enter yes.	☐ No	☑ Yes
4. Does your jurisdiction's zoning ordinance set minimum building size requirements that exceed the local housing or health code or is otherwise not based upon explicit health standards?	☐ Yes	☑ No

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5. If your jurisdiction has development impact fees, are the fees specified and calculated under local or state statutory criteria? If no, skip to question #7. Alternatively, if your jurisdiction does not have impact fees, you may enter yes.	☐ No	☑ Yes
6. If yes to question #5, does the statute provide criteria that sets standards for the allowable type of capital investments that have a direct relationship between the fee and the development (nexus), and a method for fee calculation?	☐ No	☑ Yes
7. If your jurisdiction has impact or other significant fees, does the jurisdiction provide waivers of these fees for affordable housing?	☐ No	☑ Yes
8. Has your jurisdiction adopted specific building code language regarding housing rehabilitation that encourages such rehabilitation through gradated regulatory requirements applicable as different levels of work are performed in existing buildings? Such code language increases regulatory requirements (the additional improvements required as a matter of regulatory policy) in proportion to the extent of rehabilitation that an owner/developer chooses to do on a voluntary basis. For further information see HUD publication: "*Smart Codes in Your Community: A Guide to Building Rehabilitation Codes*" (www.huduser.org/publications/destech/smartcodes.html)	☐ No	☑ Yes
9. Does your jurisdiction use a recent version (i.e. published within the last 5 years or, if no recent version has been published, the last version published) of one of the nationally recognized model building codes (i.e. the International Code Council (ICC), the Building Officials and Code Administrators International (BOCA), the Southern Building Code Congress International (SBCI), the International Conference of Building Officials (ICBO), the National Fire Protection Association (NFPA)) without significant technical amendment or modification. In the case of a tribe or TDHE, has a recent version of one of the model building codes as described above been adopted or, alternatively, has the tribe or TDHE adopted a building code that is substantially equivalent to one or more of the recognized model building codes? Alternatively, if a significant technical amendment has been made to the above model codes, can the jurisdiction supply supporting data that the amendments do not negatively impact affordability.	☐ No	☑ Yes
10. Does your jurisdiction's zoning ordinance or land use regulations permit manufactured (HUD-Code) housing "as of right" in all residential districts and zoning classifications in which similar site-built housing is permitted, subject to design, density, building size, foundation requirements, and other similar requirements applicable to other housing that will be deemed realty, irrespective of the method of production?	☐ No	☑ Yes

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11. Within the past five years, has a jurisdiction official (i.e., chief executive, mayor, county chairman, city manager, administrator, or a tribally recognized official, etc.), the local legislative body, or planning commission, directly, or in partnership with major private or public stakeholders, convened or funded comprehensive studies, commissions, or hearings, or has the jurisdiction established a formal ongoing process, to review the rules, regulations, development standards, and processes of the jurisdiction to assess their impact on the supply of affordable housing?	☐ No	☑ Yes
12. Within the past five years, has the jurisdiction initiated major regulatory reforms either as a result of the above study or as a result of information identified in the barrier component of the jurisdiction's "HUD Consolidated Plan?" If yes, attach a brief list of these major regulatory reforms.	☐ No	☑ Yes
13. Within the past five years has your jurisdiction modified infrastructure standards and/or authorized the use of new infrastructure technologies (*e.g.* water, sewer, street width) to significantly reduce the cost of housing?	☐ No	☑ Yes
14. Does your jurisdiction give "as-of-right" density bonuses sufficient to offset the cost of building below market units as an incentive for any market rate residential development that includes a portion of affordable housing? (As applied to density bonuses, "as of right" means a density bonus granted for a fixed percentage or number of additional market rate dwelling units in exchange for the provision of a fixed number or percentage of affordable dwelling units and without the use of discretion in determining the number of additional market rate units.)	☐ No	☑ Yes
15. Has your jurisdiction established a single, consolidated permit application process for housing development that includes building, zoning, engineering, environmental, and related permits? Alternatively, does your jurisdiction conduct concurrent, not sequential, reviews for all required permits and approvals?	☐ No	☑ Yes
16. Does your jurisdiction provide for expedited or "fast track" permitting and approvals for all affordable housing projects in your community?	☐ No	☑ Yes
17. Has your jurisdiction established time limits for government review and approval or disapproval of development permits in which failure to act, after the application is deemed complete, by the government within the designated time period, results in automatic approval?	☐ No	☑ Yes
18. Does your jurisdiction allow "accessory apartments" either as: a) a special exception or conditional use in all single-family residential zones or, b) "as of right" in a majority of residential districts otherwise zoned for single-family housing?	☐ No	☑ Yes
19. Does your jurisdiction have an explicit policy that adjusts or waives existing parking requirements for all affordable housing developments?	☐ No	☑ Yes
20. Does your jurisdiction require affordable housing projects to undergo public review or special hearings when the project is otherwise in full compliance with the zoning ordinance and other development regulations?	☐ Yes	☑ No
Total Points:		

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Regulatory Barriers

City of Portland, City of Gresham and Multnomah County Consortium

Part A. Local Jurisdictions. Counties Exercising Land Use and Building Regulatory Authority and Other Applicants Applying for Projects Located in such Jurisdictions or Counties

Supplemental answer
12. Within the past five years, has the jurisdiction initiated major regulatory reforms either as a result of the above study or as a result of information identified in the barrier component of the jurisdiction's "HUD Consolidated Plan?" If yes, attach a brief list of these major regulatory reforms.

Regulatory Reforms
In the Consolidated Plan 2005-2011, the Consortium identified the need to coordinate housing initiatives within a regional planning framework. It also identified the cumulative impact of local regulations, systems development charges, and revitalization that had the unintended consequence of promoting involuntary displacement.

In the Consolidated Plan 2011-2016, the Consortium affirmed the need for coordinated regional planning. Metro is the regional planning agency. Over the last two years, Metro has coordinated the work of many local governments and community partners, including the Consortium members, around achieving sustainable communities: energy-efficient, equitable communities that both reduce the carbon footprint and offer all residents access to opportunities for good jobs, public transit, quality education, health care and a range of community amenities and services.

While Metro's application to HUD for a Sustainable Communities Initiative Planning Grant was not successful, HUD designated the Metro area a Preferred Sustainability Status Community. Moreover, Metro, its member jurisdictions and community partners have continued to work on a number of projects and proposals to advance the sustainability of this region, including a plan to create regional "opportunity maps" that would illuminate where barriers exist to the creation of communities of opportunity, and what strategies might be effective to address them.

The Portland City Council has continued to lead regional affordable housing efforts, and acted aggressively to keep the cost of housing down and to remove barriers to the development, maintenance, and improvement of affordable housing.

It has also provided incentives to develop maintain and improve affordable housing in our jurisdiction. Specifically, the Portland City Council has acted on the policies detailed below:

1. **Policy for Supporting Regional Affordable Housing Strategy Implementation**
   Metro, the regional land-use planning agency, has developed the Regional Affordable Housing Strategy (RAHS). The strategy sets aspirational goals for affordable housing

production, and requires each jurisdiction to consider the adoption of various tools to promote development of affordable housing. Multnomah County, Portland and Gresham have all adopted the RAHS. In December 2003, Portland reported that it had considered and taken action on most tools. Examples include: density bonuses, reduced parking requirements, private lender participation and loan guarantees, systematic inspections, siting policies, regional revenue option for housing, mobility strategies, partnerships with public schools, weatherization and energy efficiency and various financial tools. In June 2004, the City or Portland reported on the outcomes of its amendments to its Comprehensive Plan and implementing ordinances pending at the time of the December 2003 report and the public response to the adoption of these amendments.

As a result of this policy, Portland is fully implementing the regional affordable housing strategy. Units are counted under specific programs.

2. Policy of Exempting Affordable Housing from Property Taxes

The Portland City Council has adopted six tax exemption programs allowed under State law.

The Bureau of Planning and Sustainability and the Portland Housing Bureau administer these programs which include ones for:

- Low-income housing held by nonprofit organizations;
- Renter rehabilitation;
- Owner rehabilitation in homebuyer opportunity areas;
- New construction of single unit owner occupied housing in homebuyer opportunity areas;
- New transit supportive residential or mixed use development; and
- New multi-unit housing in the Central City and urban renewal areas (URAs).

As of 2011, the City of Portland assists over 13,000 households through residential tax exemption programs. The largest program by units and by share of foregone revenue is the non-profit affordable housing program. Due to property tax limitation laws, the residential rehab programs are no longer used.

A multi-year evaluation of the programs will be complete in July, 2012, and will result in improved programs that are effective in leveraging private housing development to advance the City's housing and economic prosperity goals; and limited to address impact of foregone revenue. The new rules will be implemented as a three year pilot program and reviewed for compliance with the City's Comprehensive Plan update when completed.

3. Policy to Assess and Eliminate Unnecessary Regulatory Barriers

The City of Portland Bureau of Planning and Sustainability was directed to per form periodic and ongoing assessments of the cumulative impact of regulations (zoning and building codes) and infrastructure requirements on the ability of the market to meet housing demand at different price levels. As a result of this assessment, the City of Portland has allowed accessory dwelling units in single family zones since at least the early 1980s and has continued to liberalize the regulations governing them and approved the development of small, detached

units on 2,500 square foot lots in R2 and R2.5 zones in the 1990s. The Portland Bureau of Development Services
established a moratorium on collecting fees for accessory dwelling units through out 2010. No outcomes are available at this time.

4. **Policy to Expedite Housing Development**
The City of Portland Bureau of Development Services was directed in 2003 to adopt a policy to guarantee a ten-day turn around for complete residential building permit applications. This removed a barrier to development of affordable housing.

5. **Policy to Provide Incentives for Mixed-Use, Mixed-Income Development**
The City of Portland Planning Bureau was directed to offer density bonuses, large-unit bonuses, and underground parking bonuses for mixed-use, mixed-income projects in the West End of the Central City beginning in 2002.

6. **Policy to Exempt Affordable Housing from System Development Charges**
In 1998, the Portland City Council directed the City Parks, Water and Transportation Bureaus to provide complete or partial exemptions to system development charges (SDCs) for affordable housing projects serving households below 60 percent MFI. For FY 2009-2010, SDC exemptions totaled $4,067,493.89 in foregone revenue. This reduced the cost of developing a total of 570 units of affordable housing, 356 affordable rental units and 214 homeownership units.

7. **Policy to Mitigate Effects of New Development on Existing Affordable Housing**
In 2001, the Portland City Council adopted a Central City No Net Loss policy, in response to concerns that the economic development of the Central City was squeezing out affordable housing. In FY2009-2010, the city completed two affordable housing preservation projects: Walnut Park and Upshur House. 68 total units were preserved; 67 units were preserved to be affordable to households below 30 percent MFI, one unit was preserved at above 80 percent MFI for a property manager unit.

Seven downtown properties have Project-based Section 8 contracts due to expire within the term of this 2011-2016 Consolidated Plan. Under Portland's Preservation Ordinance, the City may purchase the properties to preserve affordability of the 581 units:

Project name	Project Street Address	Expiration Date	Total Units	Contract Units
Chaucer Court	1019 Southwest 10th Avenue	10/21/11	83	83
Hawthorn East	1420 Southeast 16th Avenue	12/20/11	71	71
Lexington	1125 SW 12th Avenue	11/22/12	54	54
Park Tower	731 SW Salmon Street	12/15/12	162	162
Bronaugh Building	1434 SW Morrison Street	02/09/13	51	51
1200 Building	1220 Southwest 12th Avenue	05/26/13	89	89
Uptown Tower	712 Southwest Saint Clair Avenue	07/18/13	71	71
Total			581	581

8. Portland Plan policies

In April 2012, Portland City Council adopted the Portland Plan, a strategic road map to help our city thrive for the next 25 years. The Plan includes policies and both long and short-term implementation activities focused on Prosperity, Education, Health and Equity. The plan would boost affordable housing preservation and new production efforts. For details, please see www.portlandonline.com/portlandplan.

The City of Gresham has acted on the policies described below:

1. The perimeter lot size compatibility standard was removed in 2008, which allows for the construction of housing on smaller lots. This was part of the Residential Districts Review process.
2. In 2011, the plan development requirement for lots that were less than 6,000 square feet was removed making it easier to develop subdivisions with minimum lot sizes of 5,000 square feet.
3. In 2011, code was changed to permit the overlap of buffers and setbacks for infill development which increased the land available for housing units.

The City of Gresham continues to promote high density residential development within Transit Corridors, Town Centers and Regional Centers. In addition, Gresham allows Community Services Uses (special use housing) in all districts except industrial districts. This action has substantially broadened the range of siting opportunities for special needs housing.