

BEFORE THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF EXPRESSING	)	RESOLUTION NO. 92-1665A
METROPOLITAN SERVICE DISTRICT'S	)	
INTENTION TO REIMBURSE CERTAIN	)	Introduced by Rena Cusma,
EXPENSES RELATED TO THE GREENSPACES	)	Executive Officer
PROGRAM FROM THE SALE OF GENERAL	)	
OBLIGATION BONDS	)	

WHEREAS, The Metropolitan Service District ("Metro") is currently in the processing of seeking voter approval to issue \$200,000,000 in aggregate principal amount of general obligation bonds (the "Bond") to finance the acquisition of land and interests in land to be incorporated into a regional parks, open space and recreational facilities system (the "Greenspaces Program"); and

WHEREAS, The total land acquisition costs of the Greenspaces Program is currently estimated to be in excess of \$200,000,000; and

WHEREAS, Metro has already incurred preliminary expenditures relating to design, planning and feasibility of the Greenspaces Program, all within the mean of Treasury Regulations §1.103-18(i)(2), and will continue to incur from time to time additional costs of the Greenspaces Program (such preliminary expenditures together with such other costs of the Greenspaces Program incurred and paid prior to the issuance of the Bonds being herein collectively called the "Pre-Issuance Expenditures"); and

WHEREAS, In accordance with the Greenspaces Program planned budget and Metro's operating budget to the fullest extent practicable, the Pre-Issuance Expenditures will ultimately be financed out of the proceeds of the Bonds as and when such Bonds are issued; and

WHEREAS, Pending the issuance of, and the availability of the proceeds derived from sale of, the Bonds, the Pre-Issuance Expenditures have been and will be paid on an interim basis out of moneys which, in accordance with Metro's budget and budgetary practices, are not and will not be available on a long-term basis to pay such costs (the "Advances"), with the expectation and intent that, to the fullest extent practicable, Metro will be reimbursed for all such Advances out of the proceeds of the Bonds as and when the same are issued; now, therefore,

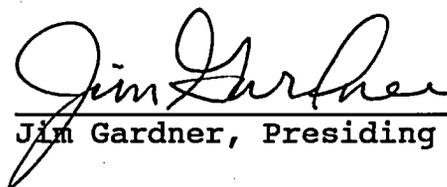
BE IT RESOLVED,

1. The Council hereby declares its intent to finance all Pre-issuance Costs out of the proceeds of the Bonds as and when the same are issued, and to reimburse itself out of the proceeds of the Bonds for all Advances made for the purpose of paying on an interim basis all Pre-issuance Costs, except for those budgeted Advances for Planning Department staff and staff support costs paid by Metro excise tax or federal grants. The Metro Council acknowledges that such reimbursement from Bond proceeds may be made only to the extent that all other applicable requirements of Treasury Regulation §1.103-18 are met with respect to the Bonds, the Pre-issuance Costs, the sources of fund used to make the Advances and such reimbursement from Bond proceeds, but intends, and, with the exception of the Planning Department costs specifically mentioned above, hereby directs all Metro officials and personnel, to take such lawful actions as may be necessary or appropriate in order to ensure that the Advances may be reimbursed from Bond proceeds to the fullest extent permitted by law.

2. This resolution is intended to constitute an official declaration on the part of Metro to reimburse itself out of the proceeds of the Bonds for all Advances made to pay Pre-issuance Costs, all within the meaning of and pursuant to Treasury Regulation §1.103-18.

3. Within 30 days after the date of adoption of this resolution, the Clerk of the Council shall make a certified copy hereof available for public inspection at the office of the Clerk of the Metro Council at 2000 S.W. First, Portland, Oregon 97201, and shall keep a such certified copy available for public inspection at said office until all Bonds have been issued.

ADOPTED by the Council of the Metropolitan Service District  
this 10th day of September, 1992.

  
\_\_\_\_\_  
Jim Gardner, Presiding Officer

## Attachment A

### Estimated Budget for Master Plan Information

Document	Number Printed	Cost	Number Mailed	Cost	Total Cost
.875 MP Newsprint Tabloid	355,000	\$ 8,500	280,000	\$12,300	\$20,800
.875 MP Tabloid on Better Paper	3,250	700			700
MP Tabloid "Poster"	250	100			100
MP Executive Summary	2,500	7,000	500	850	7,850
Full Master Plan	750	6,375	250	1,025	7,400
Other Informational Mailings as Requested	--	--	--	10,000	10,000
.875 Misc. Fact/Q&A Sheets	25,000	875	14,000	2,800	3,675
<b>Total</b>		<b>\$23,550</b>		<b>\$26,975</b>	<b>\$50,525</b>

### Estimated Budget for Ballot Measure Information

Document	Number Printed	Cost	Number Mailed	Cost	Total Cost
.125 Trip Into Nature Brochure	25,000	\$ 6,300	14,000	\$ 700	\$ 7,000
.125 Newsprint Tabloid	355,000	1,200	280,000	1,540	2,740
Bond Measure Fact Sheet	100,000	3,000	14,000	2,800	5,800
.125 MP Tabloid on Better Paper	3,250	100			100
.125 Misc. Fact/Q&A Sheets	25,000	750			750
<b>Total</b>		<b>\$11,350</b>		<b>\$5,040</b>	<b>\$16,340</b>
<b>Grand Total</b>		<b>\$34,900</b>		<b>\$32,015</b>	<b>\$66,915</b>

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EXPENSES RELATED TO THE GREENSPACES	)	Executive Officer
PROGRAM FROM THE SALE OF GENERAL	)	
OBLIGATION BONDS	)	

WHEREAS, The Metropolitan Service District ("Metro") is currently in the processing of seeking voter approval to issue \$200,000,000 in aggregate principal amount of general obligation bonds (the "Bond") to finance the acquisition of land and interests in land to be incorporated into a regional parks, open space and recreational facilities system (the "Greenspaces Program"); and

WHEREAS, The total land acquisition costs of the Greenspaces Program is currently estimated to be in excess of \$200,000,000; and

WHEREAS, Metro has already incurred preliminary expenditures relating to design, planning and feasibility of the Greenspaces Program, all within the mean of Treasury Regulations §1.103-18(i)(2), and will continue to incur from time to time additional costs of the Greenspaces Program (such preliminary expenditures together with such other costs of the Greenspaces Program incurred and paid prior to the issuance of the Bonds being herein collectively called the "Pre-Issuance Expenditures"); and

WHEREAS, In accordance with the Greenspaces Program planned budget and Metro's operating budget to the fullest extent practicable, the Pre-Issuance Expenditures will ultimately be financed out of the proceeds of the Bonds as and when such Bonds are issued; and

WHEREAS, Pending the issuance of, and the availability of the proceeds derived from sale of, the Bonds, the Pre-Issuance Expenditures have been and will be paid on an

interim basis out of moneys which, in accordance with Metro's budget and budgetary practices, are not and will not be available on a long-term basis to pay such costs (the "Advances"), with the expectation and intent that, to the fullest extent practicable, Metro will be reimbursed for all such Advances out of the proceeds of the Bonds as and when the same are issued; now therefore,

BE IT RESOLVED,

1. The Council hereby declares its intent to finance all Pre-issuance Costs out of the proceeds of the Bonds as and when the same are issued, and to reimburse itself out of the proceeds of the Bonds for all Advances made for the purpose of paying on an interim basis all Pre-issuance Costs, except for those budgeted Advances for Planning Department staff and staff support costs paid by Metro excise tax or federal grants. The Metro Council acknowledges that such reimbursement from Bond proceeds may be made only to the extent that all other applicable requirements of Treasury Regulation §1.103-18 are met with respect to the Bonds, the Pre-issuance Costs, the sources of fund used to make the Advances and such reimbursement from Bond proceeds, but intends, and, with the exception of the Planning Department staff and staff support costs specifically mentioned above, hereby directs all Metro officials and personnel, to take such lawful actions as may be necessary or appropriate in order to ensure that the Advances may be reimbursed from Bond proceeds to the fullest extent permitted by law.

2. This resolution is intended to constitute an official declaration on the part of Metro to reimburse itself out of the proceeds of the Bonds for all Advances made to pay Pre-issuance Costs, all within the meaning of and pursuant to Treasury Regulation §1.103-18.

3. Within 30 days after the date of adoption of this resolution, the Clerk of the Council shall make a certified copy hereof available for public inspection at the office of the Clerk of the Metro Council at 2000 S.W. First, Portland, Oregon 97201, and shall keep a such certified copy available for public inspection at said office until all Bonds have been issued.

ADOPTED by the Council of the Metropolitan Service District this \_\_\_\_\_  
day of \_\_\_\_, 1992.

\_\_\_\_\_  
Jim Gardner, Presiding Officer

## FINANCE COMMITTEE REPORT

CONSIDERATION OF RESOLUTION NO. 92-1665A, EXPRESSING THE DISTRICT'S INTENT TO REIMBURSE CERTAIN EXPENSES RELATED TO THE GREENSPACES PROGRAM FROM THE SALE OF GENERAL OBLIGATION BONDS

Date: September 8, 1992

Presented By: Councilor Devlin

**COMMITTEE RECOMMENDATION:** At it's September 3, 1992 meeting the Committee voted unanimously to recommend Council approval of Resolution No. 92-1665 as amended. All Committee members were present and voting.

**COMMITTEE DISCUSSION/ISSUES:** The Committee held two meetings on the resolution. At it's August 20, 1992 meeting the Committee heard a staff report from Jennifer Sims, Finance Director. Ms. Sims explained that Resolution No. 1665 was introduced on the advice of Ed Einowski, Bond Counsel. She pointed out it is likely that the District will incur certain costs related to the potential financing that would appropriately be reimbursed by bond proceeds. To insure eligibility of these costs for reimbursement under federal regulations, it is necessary for the District to formally declare it's intention to reimburse these expenses from the bond proceeds. Questions from Committee members were related to 1) the timing of the resolution, ie. whether or not the Council must take action at this time prior to the vote; 2) what are reimbursable expenses, ie. can planning and other related expenses be reimbursed; and 3) how can the reimbursements be used, ie. can revenues from reimbursements be used for Greenspaces operations. The Committee tabled Resolution No. 92-1665 pending receipt of information from Bond Counsel about the above raised issues and amendments to the resolution which would limit the extent of reimbursable expenses.

At it's September 3, 1992 meeting the Committee heard a staff report from Council Staff. Don Carlson, Council Administrator reviewed the letter dated August 25, 1992 from Ed Einowski, Bond Counsel, which points out that the reimbursements could not be used for non-capital expenditures such as Greenspaces operations and advice that the District proceed to adopt the resolution at the earliest possible time. Council Staff also presented an amendment to the resolution which exempts from reimbursement "those budgeted Advances for Planning Department staff and staff support costs paid by Metro excise tax or federal grants". The purpose of the amendment is to clarify that only direct costs for the financing of the bond issue such as bond counsel, financial advisor, official statement preparation and related expenses will be reimbursed from bond proceeds.

## STAFF REPORT

### CONSIDERATION OF RESOLUTION NO. 92-1665 FOR THE PURPOSE OF EXPRESSING METROPOLITAN SERVICE DISTRICT'S INTENTION TO REIMBURSE CERTAIN EXPENSES RELATED TO THE GREENSPACES PROGRAM FROM THE SALE OF GENERAL OBLIGATION BONDS

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Date: August 10, 1992

Presented by: Jennifer Sims

Metro has passed Resolution No. 92-1639 which allows Metro to submit to the qualified voters of the District questions of contracting a general obligation bond indebtedness in the amount of \$200 million and authorization to proceed with the financing, acquisition, development, operation and maintenance of a regional system of greenspaces.

It is likely that Metro will incur certain costs related to the potential financing that would appropriately be reimbursed by bond proceeds. To ensure the eligibility of these costs for reimbursement under federal regulations, it is necessary for Metro to formally declare its intention to reimburse these expenses from the proceeds of the borrowing.

These expenditures are not expected to have any budgetary impact because they are associated with the issuance of bonds and would be incurred in the same year as the bonds are issued. Under Oregon budget law such expenditures are exempt from treatment under the budget.

Resolution No. 92-1665 accomplishes this formal declaration.

### EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Resolution No. 92-1665.

STOEL RIVES BOLEY  
JONES & GREY

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PORT OF PORTLAND BUILDING  
700 NE MULTNOMAH  
PORTLAND, OREGON 97232-4109

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Writer's Direct Dial Number

RECEIVED

AUG 26 1992

Metro Risk  
Management Div.

(503) 294-9838

Tuesday, August 25, 1992

Jennifer Sims, Director of Finance and Administration  
Chris Sherer, Financial Planning Manager  
Metropolitan Service District  
2000 SW First  
Portland, Oregon 97201

Re: Reimbursement Resolution for Green Spaces Bond Issue

Gentlepersons:

I am writing for the purpose of responding to certain questions that have been raised in connection with the so-called "reimbursement resolution" (the "Resolution") that has been forwarded to you for Council action in connection with the proposed general obligation bond financing (the "Bonds") for Metro's Green Spaces Program (the "Program").

The need for the Resolution arises under IRS Regulations which impose a number of requirements and conditions that must be met in order for Metro be able to reimburse itself out of Bond proceeds for most types of Program expenditures paid prior to the date of issuance of the Bonds. One of the most important requirements is that Metro have formally declared its intent to reimburse such pre-issuance expenditures *prior* to the time such expenditures are made. The Resolution is drafted to meet the requirements of the Regulations with respect to this formal declaration of intent to reimburse. With only limited exceptions, Program expenditures paid prior to adoption of the Resolution may not be reimbursed out of Bond proceeds.

The only exception to this requirement that is likely to be applicable in the present case is that which allows for reimbursement out of Bond proceeds for "preliminary expenditures" such as architectural, engineering, surveying, soil testing and Bond issuance costs that are properly charged and accounted for as part of the Program's capital costs. This is a somewhat limited category of expenditures that does not include items such as costs for land acquisition, site preparation or other costs incident to the construction of improvements.

It may be tempting for Metro to defer adopting the Resolution at this point in time on grounds that the only Program expenditures currently being made are those which qualify as "preliminary expenditures". However, experience has shown that the line between those

expenditures which qualify as "preliminary expenditures" and those which do not is often crossed before anyone cognizant of the issue under the Regulations becomes aware that the expenditure has been made. The result is to preclude reimbursement for significant items which would otherwise qualify had an appropriate resolution been adopted. It is with this in mind that I renew my previous recommendation that Council undertake to adopt the Resolution at the earliest possible time.

It should be noted that adoption of the Resolution does not commit Metro to reimburse any pre-issuance expenditures if the voters approve the Bonds, but merely permits it to do so *if otherwise permissible under applicable law*. I stress the latter phrase in order to draw attention the fact that there are a number of other legal requirements that must be met in order for Bond proceeds to be used to reimburse Metro for pre-issuance expenditures. For example:

(1) Under the Regulations, the expenditures must constitute "capital expenditures" under federal tax accounting principles.

(2) Ballot Measure 5 limits the use of general obligation bond proceeds to "capital construction or improvements". Thus, Bond proceeds could not be used for non-capital expenditures even if the Regulations were silent on this point.

(3) Under State law, the particular expenditure must be of the type contemplated by the Ballot Measure to be financed out of the Bonds. For example, the Ballot Measure expressly states that Bond proceeds will not be used to "pay for operation and maintenance", and hence pre-issuance expenditures for such purposes could not be reimbursed in any event.

In general, these other legal requirements are designed to ensure that the Bond proceeds are used for legitimate Program purposes contemplated by the voters in authorizing the issuance of the Bonds. In no event could reimbursement be used as a device to divert Bond proceeds for use for operating purposes, as a supplement to Metro's General Fund revenues or other purposes not legitimately related to the capital costs of the Program.

I hope the forgoing adequately responds to the questions that have been raised concerning the need for Council to adopt the Resolution and the legal consequences of its adoption. If I can be of any further assistance in this matter, please call.

*Sincerely,*

Stoel Rives Boley Jones & Grey,

By:   
Edw. D. Einowski

cc: Dan Cooper  
Barbara Novak



**METRO**

2000 S.W. First Avenue  
Portland, OR 97201-5398  
503/221-1646

# Memorandum

DATE: August 27, 1992

TO: Council Finance Committee

FROM: Jennifer Sims, <sup>JS</sup> Director of Finance and Management Information

RE: Reimbursement Resolution for Greenspaces Bond Issue

The requested letter from Metro's Bond Counsel, Ed Einowski, is attached. The Committee made two inquiries of Mr. Einowski. First, in regard to the time frame for adoption of the reimbursement resolution, he continues to urge adoption at the earliest possible time. The second matter concerned the eligibility of planning expenses for reimbursement and the allowed uses of reimbursed funds. The second page of the letter provides clarification on these points. Mr. Einowski's most salient point is, "In no event could reimbursement be used as a device to divert bond proceeds for use for operating purposes..."

I understand the resolution will be rescheduled for reconsideration at the Committee's September 3, meeting. I will be available then for further discussion, or you may call sooner if you have additional questions.

JS:kc  
Attachment

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cc: Rena Cusma, Executive Officer  
Don Carlson, Council Administrator  
Dan Cooper, General Counsel

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WHEREAS, Pending the issuance of, and the availability of the proceeds derived from sale of, the Bonds, the Pre-Issuance Expenditures have been and will be paid on an interim basis out of moneys which, in accordance with Metro's budget and budgetary practices, are not and will not be available on a long-term basis to pay such costs (the "Advances"), with the expectation and intent that, to the fullest extent practicable, Metro will be reimbursed for all such Advances out of the proceeds of the Bonds as and when the same are issued; now therefore,

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---

Jim Gardner, Presiding Officer