

**BEFORE THE METRO COUNCIL**

**A RESOLUTION AUTHORIZING A LOAN ) RESOLUTION NO. 95-2198  
TO METRO FROM THE OREGON )  
ECONOMIC DEVELOPMENT ) Introduced by Mike Burton  
DEPARTMENT'S SPECIAL PUBLIC )  
WORKS FUND LOAN PROGRAM. )**

**SECTION A. FINDINGS.** As the preamble to this Resolution, the Metro Council recites the matters set forth in this Section. To the extent any of the following recitals relates to a finding or determination which must be made by the Council in connection with the subject matter of this Resolution or any aspect thereof, the Council declares that by setting forth such recital such finding or determination is thereby made by the Council. This Section A and the recitals, findings and determinations set forth herein constitute a part of this Resolution.

**(A) POLITICAL SUBDIVISION.** Metro is a municipality and political subdivision organized and existing under and pursuant to Article XI, Section 14 of the Oregon Constitution, the laws of the State of Oregon and the Metro Charter. Metro is a "municipality" within the meaning of Oregon Revised Statutes 285.700(1).

**(B) BOND ANTICIPATION NOTE.** Metro has heretofore issued its Bond Anticipation Note dated July 1, 1995 in the principal amount of \$2,172,233.42 (the "Outstanding Note"), said Outstanding Note having been given to the Tri-County Metropolitan Transportation District of Oregon ("Tri-Met") to extend the time for Metro to pay to Tri-Met the amounts required under a certain Regional Compact providing for contributions to be made by Metro, the City of Portland, and Washington County to defer a portion of the costs of the Westside Light Rail Extension Project being undertaken by Tri-Met. The Outstanding Note is due and payable in full on October 1, 1995.

**(C) PARKING LOT IMPROVEMENTS AT THE ZOO.** Metro is also in the process of designing, constructing and installing various improvements to the parking lot at the Metro Washington Park Zoo in order to accommodate the new light rail station being constructed there, and needs to finance at this time a portion of the costs of such improvements.

**(D) METRO AUTHORITY TO BORROW FUNDS.** Metro is authorized under the laws of the State of Oregon, and, in particular, the Metro Charter and Metro Ordinance No. 93-495 (said Ordinance adding various financing provisions as Article VIII of the Metro Code) (collectively, the "Act"), to issue bonds and other obligations for the purpose of providing the funds needed to in

connection with Metro's governmental undertakings, including obligations issued to refund outstanding obligations of Metro. Metro Ordinance No. 91-439, enacted on December 21, 1991, as amended by Metro Ordinance No. 93-495, enacted on April 22, 1993 (said Ordinance No. 91-439 as amended by said Ordinance No. 93-495 being herein referred to as the "General Revenue Bond Master Ordinance"), provides a comprehensive framework for Metro to borrow money by issuing Bonds and entering into and incurring Financial Obligations payable from Metro's Revenues and Available Funds.

**(E) SPECIAL PUBLIC WORKS FUND LOAN PROGRAM.** Oregon Revised Statutes 285.700 through 287.750 (the "SPWF Act") authorizes any municipality to file an application with the Oregon Economic Development Department ("the Department") to obtain financial assistance from the Special Public Works Fund loan program administered by the Department. In order to obtain the funds necessary to pay the Bond Anticipation Note on or before its due date and to finance a portion of the costs of the parking lot improvements at the Metro Washington Park Zoo (the refunding of the Bond Anticipation Note in order to pay Metro's share of the Westside Light Rail Extension Project and the design, construction and installation of the parking lot improvements being herein collectively referred to as the "Project"), Metro has determined to enter in to a Financing Agreement (within the meaning of the General Revenue Bond Master Ordinance) with the Department pursuant to which Metro will borrow money through said Special Public Works Fund loan program. To that end, Metro has filed an application with the Department. The Department has approved Metro's application for financial assistance from the Special Public Works Fund pursuant to the SPWF Act. Metro is required, as a prerequisite to the receipt of financial assistance from the Department, to enter into a Financial Assistance Award Contract and a Loan Agreement with the Department in substantially the form on file with Metro's Chief Financial Officer in connection with the adoption of this resolution. The Project, as more particularly described in Exhibit "A" to the Loan Agreement, is an "infrastructure project" within the meaning of the SPWF Act which is needed by and is in the public interest of Metro.

**NOW, THEREFORE, BE IT RESOLVED BY THE METRO COUNCIL AS FOLLOWS:**

**SECTION 1. TERMS DEFINED IN GENERAL REVENUE BOND MASTER ORDINANCE.** All terms used in this resolution and not otherwise defined herein shall have the respective meanings assigned thereto in the General Revenue Bond Master Ordinance.

**SECTION 2. LOAN AUTHORIZED.** Pursuant to the Special Public Works Fund loan program, Metro shall borrow from the Department the principal sum of Two Million Seven Hundred and Sixty Thousand Dollars (\$2,760,000) (the "Loan"). The Executive Officer is hereby authorized, empowered and directed, for an on behalf of Metro, to establish and determine:

(a) the interest rate to be applicable to the Loan, *provided that* in no event shall the Loan bear interest at a rate in excess of 6.5% *per annum*; and

(b) the dates on which the principal of and accrued interest on the Loan shall be due and payable and the principal amount to be due on each such date.

**SECTION 3. SECURITY.** The Loan shall constitute a Financing Obligation under the General Revenue Bond Master Ordinance, and the Financing Documents (as defined below) shall constitute a Financing Agreement within the meaning of the General Revenue Bond Master Ordinance. The principal of and interest on the Loan shall be payable from the Revenues and Available Funds on a parity basis (*pari passu*) with the payment of all amounts owing under all Outstanding Debt Obligations. The obligation of Metro to make payments pursuant to the Loan Agreement is a full faith and credit obligation of Metro payable as aforesaid out of the Revenues and Available Fund and is an obligation that is not subject to annual appropriation. In accordance with the requirements of the General Revenue Bond Master Ordinance, Metro covenants and agrees to duly budget and appropriate Revenues and Available Funds in each fiscal year sufficient to pay when due all amounts of principal of and interest on the Loan.

**SECTION 4. ADDITIONAL AUTHORIZATIONS.** Metro's Executive Officer and Chief Financial Officer, and each of them acting individually, are hereby authorized, empowered and directed, for and on behalf of Metro, to do and perform all acts and things necessary or appropriate to obtain the Loan and otherwise implement the provisions of this Resolution, including but not limited to the execution and delivery of the Financial Assistance Award Contract, Loan Agreement, the Promissory Note attached as Exhibit "F" to the Loan Agreement (the "Financing Documents") and such documents, instruments, certificates and agreements as may be necessary or appropriate in connection with the Loan. The proceeds of the Loan shall be applied solely to the "Costs of the Project" as such term is defined in the Loan Agreement.

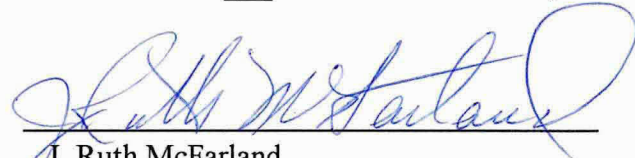
**SECTION 5. MAINTENANCE OF TAX-EXEMPT STATUS.** Metro hereby covenants and agrees that it will not take any action which would cause the interest on the Loan to become includable for federal income tax purposes in the gross incomes of the owner thereof, and that Metro will take all reasonable actions within its control necessary in order to ensure that the interest on the Loan remains excludable for federal income tax purposes from the gross incomes of the owner thereof. In addition, Metro further covenants and agrees that it will not make any use of the proceeds of the Loan or the lands and improvements to be financed with the proceeds of the Loan which would result in the Loan being or becoming (a) a private activity bond within the meaning of Section 141(a) of the Internal Revenue Code of 1986, as amended (the "Code") or (b) an arbitrage bond within the meaning of Code Section 148(a). Metro may, in subsequent resolutions of the Council and in the certificates executed and delivered by Metro Executive Officer and the Metro Chief Financial Officer in connection with the Loan, make additional covenants to insure that interest paid on the Loan will remain excludable for federal income tax purposes from the gross incomes of the

owner thereof, in which event such additional covenants shall constitute contracts with the owner of the Loan.


**SECTION 6. REIMBURSEMENT OUT OF LOAN PROCEEDS.** Metro may reimburse expenditures for the Project with amounts received from the Department pursuant to the Financing Documents. Additionally, Metro understands that the Department may fund or reimburse itself for the funding of amounts paid to Metro pursuant to the Financing Documents with the proceeds of bonds issued by the State of Oregon pursuant to the SPWF Act. This resolution shall constitute "official intent" within the meaning of Section 1.150-2 of the Income Tax Regulations promulgated by the United States Department of the Treasury with respect to the funding or the reimbursement for the funding of the costs of the Project with the proceeds of the Loan pursuant to the Financing Documents and with the proceeds of any bonds issued by the State of Oregon pursuant to the SPWF Act.

**SECTION 7. EFFECTIVENESS OF RESOLUTION.** This Resolution shall take effect immediately upon its adoption by the Metro Council.

ADOPTED THIS 7 DAY OF SEPTEMBER, 1995.

  
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J. Ruth McFarland  
Presiding Officer of Metro Council

**APPROVED AS TO FORM:**

  
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Daniel B. Cooper, General Counsel

## STAFF REPORT

### CONSIDERATION OF A RESOLUTION AUTHORIZING A LOAN TO METRO FROM THE OREGON ECONOMIC DEVELOPMENT DEPARTMENT (OEDD) SPECIAL PUBLIC WORKS FUND (SPWF) LOAN PROGRAM.

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Date: August 24, 1995

Presented by: Craig Prosser

## FACTUAL BACKGROUND AND ANALYSIS

Resolution 95-2198 authorizes acceptance of a loan from the Oregon Economic Development Department (OEDD) Special Public Works Fund (SPWF) to finance Metro's \$2 million contribution to Tri-Met for the Westside Light Rail project.

Resolution 95-2147, adopted on May 18, 1995, authorized submittal of a loan application to OEDD for the Westside Light Rail contribution and the reconfiguration of the Washington Park parking lot to accommodate the light rail station and the installation of paid parking. The loan will be awarded in two phases. The initial loan of \$2,760,000, accepted by this resolution (95-2198), covers Metro's \$2 million contribution, accrued interest owed to Tri-Met, some design costs, and capitalized interest. The second portion of the loan will be made in 1996 or 1997, once construction on the parking lot is ready to begin.

The interest rate on the loan cannot exceed 6.5%. The actual interest rate will be set after OEDD sells its bonds on August 29. This loan (and the second loan) will be repaid over a 20 year period from parking fees to be charged at the Washington Park parking lot.

This loan has been budgeted in the General Revenue Bond Fund in the FY 1995-96 Budget

## EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends approval of Resolution No. 95-2198.

CP:rs

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