BEFORE THE METRO COUNCIL

TO AUTHORIZE OBTAINING A LOAN TO FINANCE IMPROVEMENTS TO THE PORTLAND METROPOLITAN EXPOSITION CENTER	)))))	RESOLUTION NO. 96-2297 Introduced by Mike Burton, Executive Officer

WHEREAS, Metro is authorized under its charter and Title 8 of the Metro Code to enter into Credit Agreements and issue Revenue Bonds after taking Authorizing Action in the form of a resolution; and,

WHEREAS, Metro's General Revenue Bond Ordinance authorizes Metro to issue Department Obligations, which include bonds, notes and similar obligations, if: (i) the obligations are issued or incurred pursuant to or within the limitations and restrictions imposed by an indenture, ordinance or similar governing documents which establishes a comprehensive method for financing the undertakings of a Department; and, (ii) the obligations are payable solely and only out of the related Department Revenues; and,

WHEREAS, Metro desires to obtain a loan to finance improvements to the Expo Center and to repay the loan solely from the revenues of the Expo Center; and,

WHEREAS, MERC is the Department of Metro which operates the Expo Center; and,

WHEREAS, this Resolution is an Authorizing Action under Title 8 of the Metro Code, and is a document governing the issuance of Department Obligations for MERC which provides a comprehensive method for financing the undertakings of MERC, and limitations and restrictions on the issuance of those obligations in accordance with the General Revenue Bond Ordinance;

NOW, THEREFORE, BE IT RESOLVED:

Section 1. Definitions.

Capitalized terms used in this Resolution shall have the following meanings unless the context clearly requires use of a different meaning:

"1996 Expo Center Loan Agreements" means the Credit Agreements authorized by Section 11 and the related Revenue Bonds evidencing the obligation of Metro to make the payments required by those Credit Agreements.

"Code" means the Internal Revenue Code of 1986, as amended, including the rules and regulations promulgated thereunder.

"Credit Agreement" has the meaning defined for that term in Title 8 of the Metro Code.

"Debt Obligations" has the meaning defined for that term in the General Revenue Bond Ordinance.

"Defeasance Obligations" means direct non-callable obligations of the United States of America and securities fully and unconditionally guaranteed as to the timely payment of principal and interest by the United States of America, to which direct obligation or guarantee the full faith and credit of the United States of America has been pledged, Refcorp interest strips, CATS, TIGRS, STRPS, or defeased municipal bonds rated AAA by one or more nationally recognized rating agencies (or any combination thereof).

"Department Obligation" has the meaning defined for that term in the General Revenue Bond Ordinance.

"Enterprise" means any set of economic activities which are operated by MERC and which are, or may be, accounted for separately. The Enterprises of MERC on the date of adoption of this Resolution are listed in Section 2.1 of this Resolution.

"Enterprise Obligation" means a Department Obligation payable solely from the revenues of an Enterprise, which is issued in accordance with this Resolution, and which is not a Subordinate Enterprise Obligation. "Enterprise Obligation" includes all Parity Obligations.

"Enterprise Obligation Documents" means this Resolution and the indenture, Credit Agreement, loan agreement, bond and other documents which establish the rights and duties of Metro and Owner with respect to Enterprise Obligations.

"Enterprise Revenues" means the revenues, receipts and charges attributable to an enterprise, as defined in the related Enterprise Obligation Documents. Enterprise Revenues do not include amounts used to pay excise taxes or any other taxes imposed on an Enterprise or on Enterprise Revenues.

"Executive Officer" means Executive Officer of Metro or the person designated by the Executive Officer to act on behalf of Metro under this Resolution.

"Expo Center" means the Portland Metropolitan Exposition Center.

"Fund" means a fund, an account, a cost center, or any other accounting entity that allows Metro to maintain accurate records of the revenues and expenditures of an Enterprise.

"General Revenue Bond Ordinance" means Metro Ordinance 91-439 as amended, including any amendments made after adoption of this Resolution.

"MERC" means the Metropolitan Exposition and Recreation Commission, a Department of Metro.

"Metro" means the metropolitan service district organized pursuant to Article XI, Section 14 of the Oregon Constitution, ORS Chapter 268, and the 1992 Metro Charter, and located in Multnomah, Clackamas and Washington Counties in the State of Oregon.

"Metro Code" means the codified ordinances of Metro.

"Metro Council" means the legislative body of Metro.

"Operating Expenses" means the expenses of operating and maintaining an Enterprise, as defined in the related Enterprise Obligation Documents.

"ORS" means the Oregon Revised Statutes.

"Owner" means the registered owner of a Enterprise Obligation or, if an Enterprise Obligation is not in registered form, the person entitled to receive payments of principal and interest on an Enterprise Obligation.

"Parity Obligation" means any obligation which has the same claim for payment from the revenues of an Enterprise as another Enterprise Obligation.

"Priority Payments" means any credits or payments described in Enterprise Obligation Documents which are permitted by the Enterprise Obligation Documents to be made from Enterprise Revenues before the payment of debt service on Enterprise Obligations.

"Rebate Payments" means any rebates or penalties which are required to be paid to the United States under Section 148 of the Code in connection with Enterprise Obligations.

"Resolution" means this resolution and any amendments adopted in compliance with Section 9 of this Resolution.

"Subordinate Enterprise Obligations" means obligations having a lien on the revenues of an Enterprise which is subordinate to the lien of Enterprise Obligations.

"Subordinated Debt" has the meaning defined for that term in the General Revenue Bond Ordinance.

Section 2. Designation of MERC as Department; Designation of Enterprises; Comprehensive Financing Method.

2.1. For purposes of issuing Department Obligations, as defined in the General Revenue Bond Ordinance, MERC shall be treated as a Department of Metro. MERC currently has responsibility for operating the following Enterprises:

2.1.1. The Expo Center;

2.1.2. The Civic Stadium;

2.1.3. The Oregon Convention Center; and,

2.1.4. The Portland Center for the Performing Arts.

2.2. So long as no Enterprise Obligations are outstanding for an Enterprise, Metro may change any Enterprise at any time, or combine any Enterprise with another Enterprise. If Enterprise Obligations are outstanding for an Enterprise, Metro may change that Enterprise or combine it with other Enterprises only to the extent permitted by terms of the Enterprise Obligation Documents.

2.3. Metro may finance each Enterprise with general obligation bonds, Debt Obligations, Subordinated Debt, or Enterprise Obligations.

2.3.1. General obligation Enterprise Obligations may be issued as provided in the Metro Code.

2.3.2. Debt Obligations and Subordinated Debt may be issued to finance an Enterprise as provided in the General Revenue Bond Ordinance.

2.3.3. Department Obligations issued to finance an Enterprise shall be in the form of Enterprise Obligations, and shall be issued only as provided in this Resolution.

Section 3. Enterprise Obligations.

3.1. Enterprise Obligations shall be payable solely from the portion of the gross revenues of the Enterprise which are pledged to pay the Enterprise Obligations. Pursuant to ORS 288.594, any pledge of any portion of the gross revenues of an Enterprise which is authorized by Metro for the benefit of the Owners of Enterprise Obligations shall be valid and binding from the date of issuance of the Enterprise Obligations. The revenues so pledged and thereafter received by Metro shall immediately be subject to the lien of such pledge without any physical delivery or further act, and the lien of the pledge shall be superior to all other claims and liens whatsoever to the fullest extent permitted by ORS 288.594(2).

3.2. Metro shall account separately for the Enterprise Revenues and Operating Expenses of any Enterprise for which Enterprise Obligations are outstanding.

Section 4. Deposit and Use of Gross Revenues of an Enterprise.

All Enterprise Revenues of an Enterprise for which Enterprise Obligations are outstanding shall be credited to a Fund, and shall be used only as described in this section as long as any Enterprise Obligations for that Enterprise remain outstanding. So long as Enterprise Obligations are outstanding for an Enterprise, the Enterprise Revenues of that Enterprise shall be used and expended only for the following purposes and in the following order of priority:

4.1. At any time to pay General Assessments which are then due;

4.2. So long as no payments described in the preceding subsection are due or overdue, to pay Operating Expenses;

4.3. So long as no payments described in the preceding two subsections are due or overdue, to make Priority Payments;

4.4. So long as no payments described in the preceding three subsections are due or overdue, to pay any Rebate Payments;

4.5. So long as no payments described in the preceding four subsections are due or overdue, to pay debt service on Enterprise Obligations, to fund any Enterprise Reserves, or to make payments to entities providing credit enhancement for an Enterprise Obligation;

4.6. So long as no payments described in the preceding five subsections are due or overdue, to pay any other costs or expenses authorized by law and permitted by the Enterprise Obligation Documents.

Section 5. Enterprise Obligation Funds and Accounts.

Metro may authorize the creation of debt service Funds and reserve Funds for Enterprise Obligations, and may obligate itself to maintain such Funds so long as Enterprise Obligations are outstanding.

Section 6. Rate Covenants.

Metro may enter into covenants for the benefit of Owners which require Metro to establish and maintain rates, charges and other Enterprise Revenues which are sufficient to permit Metro to pay all General Assessments, Operating Expenses, Priority Payments, Rebate Payments and debt service on Enterprise Obligations, to fund reserves for Enterprise Obligations, and to maintain any level of coverage required by the Enterprise Obligation Documents.

Section 7. Parity Obligations.

The Enterprise Obligation Documents shall provide the terms under which Parity Obligations may be issued, and the terms under which Subordinate Enterprise Obligations may be issued.

Section 8. General Covenants.

Metro hereby covenants and agrees with the Owners of outstanding Enterprise Obligations as follows:

8.1. That it will continue the operation of each Enterprise for which Enterprise Obligations are outstanding until those Enterprise Obligations are paid.

8.2. That it will promptly cause the principal, premium, if any, and interest on the Enterprise Obligations to be paid as they become due in accordance with the provisions of this Resolution, the Enterprise Obligations and the documents authorizing the Enterprise Obligations.

8.3. That is will keep all covenants and agreements made for the benefit of Owners in the Enterprise Obligation Documents.

8.4. That it will maintain complete books and records relating to the operation of each Enterprise for which Enterprise Obligations are outstanding in accordance with generally accepted accounting principles.

8.5. That it will promptly deposit into all Funds the Enterprise revenues and other amounts which are required to be so deposited by the documents authorizing the Enterprise Obligations.

8.6. That it will, to the extent required by the documents authorizing Enterprise Obligations, maintain insurance on the properties of each Enterprise with responsible insurers, and that it will dispose of the proceeds of such insurance in the manner specified in the documents authorizing the Enterprise Obligations.

8.7. Metro will not, while any Enterprise Obligations are outstanding, sell, mortgage, lease or otherwise dispose of or encumber any properties of an Enterprise in violation of the documents authorizing the Enterprise Obligations.

Section 9. Amendment of Resolution.

9.1. This Resolution may be amended without the consent of any Owners for any one or more of the following purposes:

9.1.1. To cure any ambiguity or formal defect or omission in this Resolution;

9.1.2. To add to the covenants and agreements of Metro in this Resolution, other covenants and agreements to be observed by Metro which are not contrary to or inconsistent with this Resolution as theretofore in effect;

9.1.3. To authorize issuance of Enterprise Obligations or Subordinate Enterprise Obligations;

9.1.4. To confirm, as further assurance, any security interest or pledge created under this Resolution;

9.1.5. To make any change which, in the reasonable judgment of Metro, does not materially and adversely affect the rights of the owners of any outstanding Enterprise Obligations;

9.2. This Resolution may be amended for any other purpose only upon consent of Owners of not less than fifty-one percent 51% in aggregate principal amount of the affected Enterprise Obligations; provided, however, that no amendment shall be valid without the consent of Owners of 100 percent of the aggregate principal amount of the Enterprise Obligations outstanding which:

9.2.1. Extends the maturity of any Enterprise Obligation, reduces the rate of interest upon any Enterprise Obligation, extends the time of payment of interest on any Enterprise Obligation, reduces the amount of principal payable on any Enterprise Obligation, or reduces any premium payable on any Enterprise Obligation, without the consent of the affected Owner; or

9.2.2. Reduces the percent of Owners required to approve resolutions which amend this Resolution.

Section 10. Defeasance.

Unless otherwise provided in the documents authorizing an Enterprise Obligation, Metro may defease and deem all or any portion of outstanding Enterprise Obligations to be paid by:

10.1. irrevocably depositing cash or noncallable, nonprepayable Defeasance Obligations in escrow with an independent escrow agent which are calculated to be sufficient for the payment of Enterprise Obligations which are to be defeased; and,

10.2. filing with the escrow agent an opinion from an independent financial advisor or certified pubic accountant to the effect that the money and the principal and interest to be received from the Defeasance Obligations are calculated to be sufficient, without further reinvestment, to pay the defeased Enterprise Obligations when due; and,

10.3. if interest on the defeased Enterprise Obligations is excludable from gross income under the Code, filing with the escrow agent an opinion of nationally recognized bond counsel that the proposed defeasance will not cause interest on the defeased Enterprise Obligations to be includable in gross income under the Code.

If Enterprise Obligations are defeased under this Section, all obligations of Metro with respect to those defeased Enterprise Obligations shall cease and terminate, except for the obligation of Metro and the escrow agent to pay the defeased Enterprise Obligations from the amounts deposited in escrow.

Section 11. The 1996 Expo Center Loan Agreements.

11.1. Pursuant to the Metro Charter and Section 8.01.050 the Metro Council hereby authorizes Metro to borrow an aggregate principal amount of not more than $3,000,000 to finance improvements to the Expo Center by entering into one or more 1996 Expo Center Loan Agreements. The 1996 Expo Center Loan Agreements shall be Enterprise Obligations for the Expo Center and shall be in the form of Credit Agreements, and may include Revenue Bonds evidencing the obligation of Metro to make the payments required by the Credit Agreements.

11.2. The 1996 Expo Center Loan Agreements shall be payable solely from the gross revenues of the Expo Center which remain after payment of the General Assessments on the Expo Center, the Operating Expenses of the Expo Center, a Priority Payment in the form of an annual transfer of $325,000 of Expo Center revenues to Metro Regional Parks operations, and any Rebate Payments in connection with the 1996 Expo Center Loan Agreements, all as defined and provided in the 1996 Expo Center Loan Agreements and any related documents.

11.3. Metro covenants for the benefit of the Owners of the 1996 Expo Center Loan Agreements to comply with all provisions of the Code which are required for interest on the 1996 Expo Center Loan Agreements to be excluded from gross income for federal taxation purposes. The covenants contained in this Section and any covenants in the 1996 Expo Center Loan Agreements shall constitute contracts with the owners of the 1996 Expo Center Loan Agreements, and shall be enforceable by them. In determining what actions are required to comply, Metro may rely on an opinion of nationally recognized bond counsel. Metro makes the following specific covenants with respect to the Code:

11.3.1. Metro will not take any action or omit any action if it would cause the 1996 Expo Center Loan Agreements to become "arbitrage bonds" under Section 148 of the Code.

11.3.2. Metro shall operate the facilities financed with the 1996 Expo Center Loan Agreements so that the 1996 Expo Center Loan Agreements do not become private activity bonds within the meaning of Section 141 of the Code.

11.3.3. Metro shall pay, when due, all rebates and penalties with respect to the 1996 Expo Center Loan Agreements which are required by Section 148(f) of the Code.

11.4. The Executive Officer may, on behalf of Metro and without further action by the Metro Council:

11.4.1. Pledge the Enterprise Revenues of the Expo Center described in Section 11.2 to pay the 1996 Expo Center Loan Agreements;

11.4.2. Negotiate the terms of the 1996 Expo Center Loan Agreements within the limitations of Section 11.1 of this Resolution, including, but not limited to, provisions regarding:

11.4.2.1. the interest rate to be paid on the 1996 Expo Center Loan Agreements and the payment schedule for the 1996 Expo Center Loan Agreements;

11.4.2.2. the imposition and maintenance of minimum rates, charges and other Enterprise Revenues of the Expo Center;

11.4.2.3. the ability of Metro to prepay the 1996 Expo Center Loan Agreements;

11.4.2.4. the ability of Metro to issue Parity Obligations and Subordinate Enterprise Obligations for the Expo Center;

11.4.2.5. the ability of Metro to sell or otherwise dispose of property which is part of the Expo Center; and,

11.4.2.6. the rights of the Owners of the 1996 Expo Center Loan Agreements if Metro defaults;

11.4.3. Execute and deliver the 1996 Expo Center Loan Agreements;

11.4.4. Execute and deliver any related certificates or documents and take any actions which are reasonably required to carry out this Resolution and obtain funds to improve the Expo Center.

ADOPTED this 14th day of March, 1996.

Jon Kvistad

Jon Kvistad, Presiding Officer

Approved as to Form:

Dan B Cooper

Daniel B. Cooper, General Counsel

STAFF REPORT

TO AUTHORIZE OBTAINING A LOAN TO FINANCE IMPROVEMENTS TO THE PORTLAND METROPOLITAN EXPOSITION CENTER

Date: February 23, 1996 Presented by: Craig Prosser

FACTUAL BACKGROUND AND ANALYSIS

Resolution 96-2297 authorizes a loan to finance a portion of the cost of a new building at the Portland Metropolitan Expo Center. This is part of the package of actions necessary for the construction of a new building at the Expo Center in time to host the Smithsonian Exhibit in March 1997.

Most of the cost of the new building will be paid out of existing Oregon Convention Center and Expo resources in FY 1996-97. These resources will not cover the entire cost of the facility, however. Approximately $3 million will be financed or borrowed internally to complete the project financing. Staff has been discussing the possibility of a privately placed bond with a private company for a portion of this need. Resolution 96-2297 authorizes the executive Officer to negotiate and execute this loan and establishes the framework within which this loan may be initiated.

Under the terms of Metro General Revenue Bond Master Ordinance, before Metro may undertake any revenue bond financing for a particular department outside of the General revenue Bond structure, it must first establish a comprehensive financing method for issuance of these "Department Obligations." Resolution 96-2297 establishes that comprehensive plan for the MERC enterprises. This comprehensive plan includes the ability to pledge the revenues from the MERC enterprises, , and establishes standards to use in accounting for the enterprise revenues and debt service obligations. The resolution also establishes a priority for the use of enterprise revenues which conforms with the requirements of the General Revenue Bond Master Ordinance and ensures that operations will be funded prior to the payment of debt service.

Section 11 of the resolution authorizes Metro to borrow no more than $3 million from the privately placed bond, establishes a priority for the transfer of $325,000 per year from Expo to the Regional Parks operations, and authorizes the Executive Officer or his designee to negotiate the terms and conditions of the loan with the private company and to execute the loan documents.

EXECUTIVE OFFICER'S RECOMMENDATION:

The Executive Officer recommends adoption of Ordinance 96-2297.