

BEFORE THE METRO COUNCIL

A RESOLUTION FOR THE PURPOSE OF ) Resolution No. 98-2736  
AUTHORIZING THE EXECUTION AND DELIVERY )  
OF A LEASE PURCHASE AGREEMENT WITH ) Introduced by Mike Burton  
BANK OF AMERICA FOR COMPUTER ) Executive Officer  
EQUIPMENT, DECLARING INTENT TO )  
REIMBURSE EXPENDITURES, AND RELATED )  
MATTERS. )

WHEREAS, the Council of Metro, which is located Washington, Multnomah and Clackamas Counties, Oregon (the "District") finds:

A. The District is authorized pursuant to the Constitution and laws of the State of Oregon, specifically Oregon Revised Statutes Section 279.101, the 1992 Metro Charter, and the Metro Code 8.01 (the "Acts") to enter into lease-purchase agreements to finance authorized projects; and

B. It is in the best interest of the District to authorize and enter into a Lease-Purchase Agreement to finance (1) the upgrade of computer equipment and the consolidation of network servers (the "Project") and to pay all costs incidental thereto; and

C. The District anticipates incurring expenditures ("Expenditures") to finance the costs of the Project and wishes to declare its official intent to reimburse itself for the Expenditures made on the Project from the proceeds of obligations, the interest on which shall be excludable from gross income under Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"); and

D. It is in the best interest of the District to enter into the Lease-Purchase Agreement with Bank of America National Trust and Savings Association (the "Bank");

NOW, THEREFORE, BE IT RESOLVED, AS FOLLOWS:

1. Authorization. The Council hereby authorizes the execution and delivery of a Lease-Purchase Agreement (the "Lease-Purchase Agreement") to acquire the Project. The aggregate principal amount of the Lease-Purchase Agreement shall not exceed \$105,850. The true interest cost of this lease-purchase financing shall not exceed six percent (5.25%) per annum.

2. Lease Payments. Lease payments due under the Lease-Purchase Agreement shall be general revenue credit obligations of the District payable from non-restricted revenues received by the District and available funds of the District and shall not be subject to annual appropriation. The District hereby covenants to deposit annually in the District's Support Services Fund from its non-restricted revenues and available funds amounts sufficient to make the lease payments.

3. Designation of Authorized Representative. Pursuant to ORS 279.101 and Metro Code Section 8.01.0110, the District hereby authorizes the Executive Officer or his designee (the "Authorized Representative") to act on behalf of the District and determine the remaining terms of the Lease-Purchase Agreement as specified in Section 4.

4. Delegation of Final Terms of Lease-Purchase Agreement and Additional Documents. The Authorized Representative is hereby authorized, on behalf of the District, to:

- a. establish the dated date, interest payment dates, interest rates (not to exceed the true interest cost stated in Section 1.a. of this Resolution), the principal maturities and final principal amount, not to exceed \$105,850;
- b. make changes to the Lease-Purchase Agreement which the Authorized Representative determines to be in the best interests of the District, and to execute and deliver the Lease-Purchase Agreement; and
- c. enter into any other agreements and to execute any other certificates or documents, and take any actions, which are necessary to finance the Project in accordance with this Resolution.

5. Declaring Intent to Reimburse. The District hereby declares its official intent to reimburse itself with proceeds of the Lease-Purchase Agreement for any of the expenditures incurred by it prior to the issuance of the Lease-Purchase Agreement.

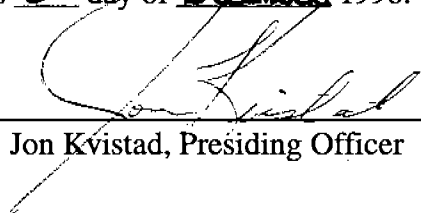
6. Maintenance of Tax-Exempt Status. The District hereby covenants for the benefit of the Bank to use the Lease-Purchase Agreement proceeds and the Project financed with Lease-Purchase Agreement proceeds, and to otherwise comply with all provisions of the Internal Revenue Code of 1986, as amended (the "Code") which are required for the interest component of lease payments payable under the Lease-Purchase Agreement to be excluded from gross income for federal income tax purposes, as provided in the Lease-Purchase Agreement. The District makes the following specific covenants with respect to the Code:

- i. The District will not take any action or omit any action if it would cause the Lease-Purchase Agreement to become arbitrage bonds under Section 148 of the Code.
- ii. The District shall operate the Project financed with the Lease-Purchase Agreement so that the Lease-Purchase Agreement does not become a private activity bond within the meaning of Section 141 of the Code.
- iii. The District shall comply with appropriate reporting requirements.
- iv. The District shall pay, when due, all rebates and penalties with respect to the Lease-Purchase Agreement which are required by Section 148(f) of the Code.

The covenants contained in this Section 6 and any covenants in the closing documents for the Lease-Purchase Agreement shall constitute contracts with the Bank, and shall be enforceable by them. The Authorized Representative may enter into covenants on behalf of the District to protect the tax-exempt status of the Lease-Purchase Agreement.

7. Bank Designation. The District designates the Lease-Purchase Agreement as a "qualified tax-exempt obligation" pursuant to Section 265(b)(3) of the Code. The District does not reasonably expect to issue more than \$10,000,000 of tax-exempt obligations during calendar year 1998.

ADOPTED by the Metro Council this 3<sup>RD</sup> day of December 1998.

  
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Jon Kvistad, Presiding Officer

Approved as to Form:

  
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Daniel B. Cooper, General Counsel

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## STAFF REPORT

### CONSIDERATION OF RESOLUTION 98-2736 FOR THE PURPOSE OF AUTHORIZING THE EXECUTION AND DELIVERY OF A LEASE/PURCHASE AGREEMENT WITH BANK OF AMERICA FOR COMPUTER EQUIPMENT, DECLARING INTENT TO REIMBURSE EXPENDITURES, AND RELATED MATTERS.

November 19, 1998

Presented by: Craig Prosser

#### Factual Background and Analysis

Resolution 98-2736 approves a lease financing agreement with Bank of America for the lease/purchase of computer equipment identified in the Upgrade InfoLink Hardware and Database and the Consolidate Servers projects included in the FY 1998-03 Capital Improvement Plan.

In the past, Metro has used the FlexLease program offered by the Special Districts Association of Oregon (SDAO). For this lease, however, Bank of America has offered a lower all-in interest rate than is available through the FlexLease program.

Under the Bank of America lease arrangement, the interest rate will be set at the time of closing (currently expected to be December 18, 1998). Interest rates remain in force during the term of the financing. True interest cost (TIC) includes both interest expenses and all other expenses paid. The current anticipated TIC is 4.54%. The maximum TIC for this financing, however, cannot exceed 5.25%. This rate is lower than other lease rates available at this time.

The total principal amount of this FlexLease is \$105,850, including costs of issuance.

Funds for FY 1998-99 debt service for this lease purchase have been included in the FY 1998-99 Approved Budget within the Administrative Services Department.

#### Executive Officer's Recommendation

The Executive Officer recommends approval of Resolution No. 98-2736.

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