

A G E N D A

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METRO

MEETING: METRO COUNCIL REGULAR MEETING
DATE: February 23, 1995
DAY: Thursday
TIME: 7:00 p.m.
PLACE: Council Chamber

REVISED AGENDA. ITEM # 9.1 HAS BEEN DELETED. TPAC BYLAWS WILL BE ADDRESSED MARCH 16, 1995. (RESOLUTION NO. 95-2089)

<u>Approx. Time *</u>		<u>Presenter</u>	<u>Lead Councilor</u>
7:00 PM	CALL TO ORDER AND ROLL CALL		
(5 min.)	1. INTRODUCTIONS		
(10 min.)	2. EXECUTIVE SESSION , Held Pursuant to ORS 192.660 (1) (e) To Conduct Deliberations With Persons Designated By The Governing Body to Negotiate Real Property.	Chase	
(10 min.)	3. EXECUTIVE SESSION , Held Pursuant to ORS 192.660 (1) (h) To Consult With Council Concerning The Legal Rights And Duties Of A Public Body With Regard To Current Litigation.		McFarland
(5 min.)	4. CITIZEN COMMUNICATIONS		
(5 min.)	5. EXECUTIVE OFFICER COMMUNICATIONS		
	6. CONSENT AGENDA		
7:35 PM (5 min.)	6.1 Consideration of Minutes for the February 16, 1995 Metro Council Regular Meeting.		
	7. ORDINANCES FIRST READINGS		
7:40 PM (10 min.)	7.1 Ordinance No. 95-593 , An Ordinance Amending The FY 1994-95 Budget And Appropriations Schedule For Emergency Repairs To Oxbow Park's Electrical Line; And Declaring An Emergency.	Ceicko	
	8. ORDINANCES SECOND READINGS		
7:50 PM (10 min.)	8.1 Ordinance No. 95-590 , An Ordinance Relating To The Metro Excise Tax And Amending Section 7.01.050, Exemptions, of The Metro Code.	Burton	McCaig

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* All times listed on the agenda are approximate; items may not be considered in the exact order listed.

Approx.
Time *

Presenter

- 9. RESOLUTIONS**
- 8:00 PM (15 min.) 9.1 **Resolution No. 95-2090**, For The Purpose Of Establishing A Financing Plan For the South/North Light Rail Project. Cotugno Monroe
- 8:15 PM (15 min.) 9.2 **Resolution No. 95-2094**, For The Purpose Of Amending The Transportation Improvement Program For The Sunnyside Village Project. Monroe
- 8:30 PM (10 min.) **10. COUNCILOR COMMUNICATIONS**
- 8:40 PM (10 min.) **11. LEGISLATIVE ITEMS**
- 8:50 PM **ADJOURN**

* All times listed on the agenda are approximate; items may not be considered in the exact order listed.

AGENDA ITEM 7.1
Meeting Date: February 23, 1995

Ordinance No. 95-593
First Reading

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 95-593 AMENDING THE FY 1994-95 BUDGET AND APPROPRIATIONS SCHEDULE FOR EMERGENCY REPAIRS TO OXBOW PARK'S ELECTRICAL LINE; AND DECLARING AN EMERGENCY

Date: February 9, 1995

Presented by: Charlie Ceicko

FACTUAL BACKGROUND AND ANALYSIS

A couple of months ago, a break in the underground PGE power line running through Oxbow Park was detected and corrected. A short time later, another break occurred at a different location and was repaired. PGE notified the Regional Parks and Greenspaces Department that due to the age of the underground line, approximately 30 years old, continual breakage of the line will become commonplace and they would no longer guarantee their repairs. They recommended replacement of the line along with new transformers as soon as possible before any more major line breakages occur. PGE will pay for the cost of the line and the line installation as well as two (2) transformers needed to replace the existing transformers. The Regional Parks and Greenspaces department is responsible for the costs associated with the concrete transformer vault boxes, pads, their replacement and trenching for the power line.

After consulting with several experts, it was determined to bore underground instead of trenching to reduce the hazards and inconvenience that open trenching creates since the line will run underneath the existing roadway. Conduit will be pushed through the bore openings and the line will be inserted. The conduit will protect and extend the life of the power line.

Since this project was not anticipated, it is not included in the FY 1994-95 adopted budget. Due to the safety and liability issues potentially inherent with major power failures and disruptions, the Regional Parks and Greenspaces department deems it to be an emergency and is requesting the Council to allow the use of department contingency to cover the costs of all necessary repairs.

This project has been formally advertised per Metro Ordinance and six (6) bids for the boring, laying of conduit and vault excavation were received, including one DBE. All bids included prevailing wage rates. The lowest bid was \$15,171. All bids were based on the assumption that the material to be bored is predominately sand. A twenty percent (20%) addition to the bid amount (\$3,034) is requested in case other materials, i.e. large river boulders, are encountered. In addition, the cost for the concrete vault boxes, pads and placement is \$1,795. Electrical charges for all necessary final hook up will be approximately \$180. The total cost for all the above emergency repairs is

Ordinance No. 95-593
Staff Report
Page 2

\$20,180. If unexpected circumstances occur which require additional funding, another request from the Council will be filed.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Ordinance No. 95-593.

BEFORE THE METRO COUNCIL

AN ORDINANCE AMENDING THE FY 1994-95)	ORDINANCE NO. 95-593
BUDGET AND APPROPRIATIONS)	
SCHEDULE FOR EMERGENCY REPAIRS TO)	Introduced by Mike Burton
OXBOW PARK'S ELECTRICAL LINE; AND)	Executive Officer
DECLARING AN EMERGENCY)	

WHEREAS, The Metro Council has reviewed and considered the need to transfer appropriations with the FY 1994-95 Budget; and

WHEREAS, The need for a transfer of appropriation has been justified; and

WHEREAS, Adequate funds exist for other identified needs; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS;

1. That the FY 1994-95 Budget and Schedule of Appropriations are hereby amended as shown in the column titled "Revision" of Exhibits A and B to this Ordinance for the purpose of transferring \$20,180 from the Regional Parks and Expo Fund Contingency to the Regional Parks and Greenspaces Department, Capital Outlay, for the purpose of providing emergency repairs to Oxbow Park's electrical line, and

2. This Ordinance being necessary for the immediate preservation of the public health, safety and welfare, in order to meet obligations and comply with Oregon Budget Law, an emergency is declared to exist, and this Ordinance takes effect upon passage.

ADOPTED by the Metro Council this _____ day of _____, 1995.

ATTEST:

J. Ruth McFarland, Presiding Officer

Clerk of Council



**Exhibit A
Ordinance No. 95-593**

FISCAL YEAR 1994-95		CURRENT BUDGET		REVISION		PROPOSED BUDGET	
ACCT #	DESCRIPTION	FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
Regional Parks and Greenspaces Department							
Total Personal Services		44.85	1,701,637	0.00	0	44.85	1,701,637
Total Materials & Services			1,927,812		0		1,927,812
<u>Capital Outlay</u>							
571100	Land		368,418		0		368,418
571200	Purchases-Improvements		3,000		0		3,000
571400	Equipment and Vehicles		3,525		0		3,525
571500	Purchases-Office Furniture & Equipment		7,293		0		7,293
574510	Construction Work/Materials-Improvements		25,000		20,180		45,180
574520	Construction Work/Materials-Buildings		10,000		0		10,000
Total Capital Outlay			417,236		20,180		437,416
TOTAL EXPENDITURES		44.85	4,046,685	0.00	20,180	44.85	4,066,865

Expo Center

TOTAL EXPENDITURES		11.70	1,410,794	0.00	0	11.70	1,410,794
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Regional Parks and Expo Fund General Expenses

Total Interfund Transfers			651,920		0		651,920
<u>Contingency and Unappropriated Balance</u>							
599999	Contingency		383,999		(20,180)		363,819
599990	Unappropriated Balance		53,254		0		53,254
Total Contingency and Unappropriated Balance			437,253		(20,180)		417,073
TOTAL EXPENDITURES		56.55	6,546,652	0.00	0	56.55	6,546,652

**Exhibit A
Ordinance No. 95-593**

FISCAL YEAR 1994-95		CURRENT BUDGET		REVISION		PROPOSED BUDGET	
ACCT #	DESCRIPTION	FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
For Information Only							
Regional Parks and Greenspaces Department (Operations and Maintenance)							
Total Personal Services		32.35	1,041,803	0.00	0	32.35	1,041,803
Total Materials & Services			615,739		0		615,739
<u>Capital Outlay</u>							
571400	Equipment and Vehicles		3,525		0		3,525
574510	Construction Work/Materials-Improvements		25,000		20,180		45,180
574520	Construction Work/Materials-Buildings		10,000		0		10,000
Total Capital Outlay			38,525		20,180		58,705
TOTAL EXPENDITURES		32.35	1,696,067	0.00	20,180	32.35	1,716,247

Exhibit B
Ordinance No. 95-593
FY 1994-95 SCHEDULE OF APPROPRIATIONS

	Current Appropriation	Revision	Proposed Appropriation
REGIONAL PARKS AND EXPO FUND			
Regional Parks and Greenspaces			
Personal Services	1,701,637	0	1,701,637
Materials & Services	1,927,812	0	1,927,812
Capital Outlay	417,236	20,180	437,416
<u>Subtotal</u>	<u>4,046,685</u>	<u>20,180</u>	<u>4,066,865</u>
Expo Center			
Personal Services	476,444	0	476,444
Materials & Services	541,350	0	541,350
Capital Outlay	393,000	0	393,000
<u>Subtotal</u>	<u>1,410,794</u>	<u>0</u>	<u>1,410,794</u>
General Expenses			
Interfund Transfers	651,920	0	651,920
Contingency	383,999	(20,180)	363,819
<u>Subtotal</u>	<u>1,035,919</u>	<u>(20,180)</u>	<u>1,015,739</u>
Unappropriated Balance	53,254	0	53,254
Total Fund Requirements	6,546,652	0	6,546,652

All Other Appropriations Remain as Previously Adopted



AGENDA ITEM 8.1
Meeting Date: February 23, 1995

Ordinance No. 95-590
Second Reading

STAFF REPORT

CONSIDERATION OF ORDINANCE NO. 95-590,
RELATING TO THE METRO EXCISE TAX AND
AMENDING SECTION 7.01.050, EXEMPTIONS,
OF THE METRO CODE

Dated: February 6, 1995

Presented by:
Executive Officer Mike Burton

PROPOSED ACTION

Ordinance No. 95-590 amends the Metro Code section granting exemptions from the Metro Excise Tax.

FACTUAL BACKGROUND AND ANALYSIS

This Ordinance eliminates the present exemption for catering and concessions at the Oregon Convention Center. At the time Metro adopted the excise tax there was an existing contract in place for concessions and catering at the convention center and the Memorial Coliseum. Activities at the Coliseum were exempted from the excise tax because of the provisions of the agreement with the City of Portland transferring City facilities to Metro. The basis for this exemption no longer exists since the original contract will expire prior to July 1, 1996, and Metro no longer operates the Coliseum. In addition, this logical extension of the excise tax would be put into effect at the same time the concession contract is up, July 1, 1995.

The Ordinance also would create a new exemption for the operation of the Glendoveer Golf Course to replace the expiring exemption for all the Metro regional parks system. The exemption would apply to the gross revenues at the golf course, pro shop, and restaurant. All payments made to Metro by the golf course operator are subject to the tax.

The Ordinance also removes the outdated exemption for the Memorial Coliseum.

The Ordinance if adopted by April 1, 1995, would be in effect on July 1, 1995.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Ordinance No. 95-590.

BEFORE THE METRO COUNCIL

AN ORDINANCE RELATING TO THE
METRO EXCISE TAX AND AMENDING
SECTION 7.01.050, EXEMPTIONS, OF
THE METRO CODE

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ORDINANCE NO. 95-590

Introduced by Mike Burton
Executive Officer

THE METRO COUNCIL ORDAINS AS FOLLOWS:

Section 1. Section 7.01.050 of the Metro Code is amended to read as follows:

7.01.050 Exemptions:

(a) The following persons, users, and operators are exempt from the requirements of this Chapter:

- (1) Persons, users, and operators whom the District is prohibited from imposing an excise tax upon under the Constitution or Laws of the United States or the Constitution or Laws of the State of Oregon.
- (2) Persons who are users and operators of the ~~{Memorial Coliseum,}~~ Portland Civic Stadium or the Portland Center for the Performing Arts.
- (3) Persons whose payments to the District or to an operator constitute a donation, gift, or bequest for the receipt of which neither the District nor any operator is under any contractual obligation related thereto.
- (4) Any persons making payment to the District for a business license pursuant to ORS 701.015.
- (5) Any person which is a state, a state agency, or a municipal corporation to the extent of any payment made directly to the District for any

purpose other than solid waste disposal, use of a Metro ERC Facility, or use of the Metro Washington Park Zoo.

~~[(6) Users who are sublessees, subtenants, sublicensees, or other persons paying compensation for the use of Metro ERC Facilities including payments by users for concessions or catering services made to the Commission or its agents but not users who purchase admission tickets for events at Metro ERC Facilities that are available to members of the general public.]~~

{(7)}(6) An operator of a franchised processing center that accomplishes material recovery and recycling as a primary operation.

{(8)}(7) Persons making payments to the District on behalf of the Metro Washington Park Zoo for the following purposes:

- (A) Contributions, bequests, and grants received from charitable trusts, estates, nonprofit corporations, or individuals regardless of whether the District agrees to utilize the payment for a specific purpose including all payments to the Zoo Parents program;
- (B) Corporate sponsorships or co-promotional efforts for events that are open to the general public, or for specific capital improvements, educational programs, publications, or research projects conducted at the Zoo;

- (C) Payments that entitle a person to admission to a fund-raising event benefiting the Zoo that is not held on the grounds of the Zoo;
- (D) Payments that entitle a person to admission to a special fund-raising event held at the Zoo where the event is sponsored and conducted by a nonprofit organization approved by the Council and the primary purpose of which is to support the Zoo and the proceeds of the event are contributed to the Zoo;
- (E) Notwithstanding the provisions of subsection (A) through (D) above, all payments received by the District for admission to the Zoo, or which entitle individuals to receipt of food, beverages, goods, or rides on the Zoo train shall be subject to tax regardless of whether payment is received from an individual or otherwise on behalf of special groups including but not limited to employee and family member picnics, corporate or family parties, or similar events.

(8) Users and operators paying compensation to any person who is operating and leasing property at the Glendoveer Golf Course pursuant to a long-term agreement entered into with Multnomah County prior to January 1, 1994.

(b) Any person, user, or operator that is exempt for the payment of an excise tax pursuant to this section shall nonetheless be liable for compliance with this Chapter and the

payment of all taxes due pursuant to any activity engaged in by such person which is subject to this Chapter and not specifically exempted from the requirements hereof. Any operator whose entire compensation from others for use of a District facility is exempt from the provisions of this Chapter shall be deemed to be a user and not an operator.

Section 2. This Ordinance shall become effective on July 1, 1995, or 90 days after the adoption of this Ordinance, whichever date shall occur later.

ADOPTED by the Metro Council this ____ day of _____, 1995.

J. Ruth McFarland, Presiding Officer

ATTEST:

Recording Clerk

gl
1215

AGENDA ITEM 9.1
Meeting Date: February 23, 1995

Resolution No. 95-2089

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING) RESOLUTION NO. 95-2089
THE TRANSPORTATION POLICY)
ALTERNATIVES COMMITTEE (TPAC)) Introduced by
BYLAWS) Rod Monroe, Chair
JPACT

WHEREAS, The Transportation Policy Alternatives Committee (TPAC) provides technical and policy input to JPACT and the Metro Council; and

WHEREAS, Amendments to the Bylaws are needed from time to time; now, therefore,

BE IT RESOLVED,

That the Metro Council hereby amends the TPAC Bylaws as reflected in Exhibit A.

ADOPTED by the Metro Council this _____ day of _____,
1995.

J. Ruth McFarland, Presiding Officer

TRANSPORTATION POLICY ALTERNATIVES COMMITTEE

BYLAWS

Adopted by Metro Council
in Resolution 94-1902 on March 24, 1994

ARTICLE I

This Committee shall be known as the TRANSPORTATION POLICY ALTERNATIVES COMMITTEE (TPAC).

ARTICLE II

The Transportation Policy Alternatives Committee coordinates and guides the regional transportation planning program in accordance with the policy of the Metro Council.

The responsibilities of TPAC with respect to transportation planning are:

a. Review the Unified Work Program (UWP) and Prospectus for transportation planning.

b. Monitor and provide advice concerning the transportation planning process to ensure adequate consideration of regional values such as land use, economic development, and other social, economic and environmental factors in plan development.

c. Advise on the development of the Regional Transportation Plan in accordance with the Intermodal Surface Transportation Efficiency Act (ISTEA), the L.C.D.C. Transportation Planning Rule, and the 1992 Metro Charter and the adopted 2040 Growth Concept.

d. Advise on the development of the Transportation Improvement Program (TIP) in accordance with ISTEA.

e. Review projects and plans affecting regional transportation.

f. Advise on the compliance of the regional transportation planning process with all applicable federal requirements for maintaining certification.

g. Develop alternative transportation policies for consideration by JPACT and the Metro Council.

h. Review local comprehensive plans for their transportation impacts and consistency with the Regional Transportation Plan.

i. Recommend needs and opportunities for involving citizens in transportation matters.

The responsibilities of TPAC with respect to air quality planning are:

a. Review and recommend project funding for controlling mobile sources of particulates, CO, HC and NOx.

b. Review the analysis of travel, social, economic and environmental impacts of proposed transportation control measures.

c. Review and provide advice (critique) on the proposed plan for meeting particulate standards as they relate to mobile sources.

d. Review and recommend action on transportation and parking elements necessary to meet federal and state clean air requirements.

ARTICLE III

MEMBERSHIP, VOTING, MEETINGS

Section 1. Membership

a. The Committee will be made up of representatives from local jurisdictions, implementing agencies and citizens as follows:

City of Portland	1
Clackamas County	1
Multnomah County	1
Washington County.	1
Clackamas County Cities.	1
Multnomah County Cities.	1
Washington County Cities	1
Oregon Department of Transportation.	1
Washington State Department of Transportation.	1
Southwest Washington Regional Transportation Council	1
Port of Portland	1
Tri-Met.	1
Oregon Department of Environmental Quality	1
Metro (non-voting)	2
Citizens	<u>6</u>
	21

In addition, the City of Vancouver, Clark County, C-TRAN, Federal Highway Administration, Federal Aviation Administration (FAA), ~~Urban Mass Transportation Administration (UMTA)~~ Federal

Transit Administration (FTA), and Washington Department of Ecology may appoint an associate member without a vote. Additional associate members without vote may serve on the Committee at the pleasure of the Committee.

b. Each member shall serve until removed by the appointing agency. Citizen members shall serve for two years and can be reappointed.

c. Alternates may be appointed to serve in the absence of the regular member.

d. Unexcused absence from regularly scheduled meetings for three (3) consecutive months shall require the Chairperson to notify the appointing agency with a request for remedial action.

Section 2. Appointment of Members and Alternates

a. Representatives (and alternatives if desired) of the Counties and the City of Portland shall be appointed by the presiding executive of their jurisdiction/agency.

b. Representatives (and alternates if desired) of Cities within a County shall be appointed by means of a consensus of the Mayors of those cities. It shall be the responsibility of the representative to coordinate with the cities within his/her county.

c. Citizen representatives will be nominated by the ~~Planning Committee of the Metro Council, jurisdictions and through a public application process, and through~~ confirmed by the Metro Council, and appointed by the Presiding Officer of the Metro Council. All citizen members shall, ~~with the approval of the Chairperson of the Metro Council Planning Committee,~~ appoint an alternate to serve in their absence; if a citizen member fails to appoint an alternate within 30 days of appointment, the Metro Council will make the appointment.

d. Metro representatives (non-voting) shall be appointed one each by the Metro Executive Officer and Council Presiding Officer.

Section 3. Voting Privileges

a. Each member or alternate of the Committee, except associate members, shall be entitled to one (1) vote on all issues presented at regular and special meetings at which the member or alternate is present.

b. The Chairperson shall have no vote.

Section 4. Meetings

a. Regular meetings of the Committee shall be held each month at a time and place established by the Chairperson.

b. Special meetings may be called by the Chairperson or a majority of the Committee members.

Section 5. Conduct of Meetings

a. A majority of the voting members (or designated alternates) shall constitute a quorum for the conduct of business. The act of the majority of the members (or designated alternates) present at meetings at which a quorum is present shall be the act of the Committee.

b. All meetings shall be conducted in accordance with Robert's Rules of Order, Newly Revised.

c. The Committee may establish other rules of procedure as deemed necessary for the conduct of business.

d. An opportunity will be provided at each meeting for citizen comment on agenda and non-agenda items.

ARTICLE IV

OFFICERS AND DUTIES

Section 1. Officers

The permanent Chairperson of the Committee shall be the Metro Planning Director or designee.

Section 2. Duties

The Chairperson shall preside at all meetings he/she attends and shall be responsible for the expeditious conduct of the Committee's business.

Section 3. Administrative Support

a. Metro shall supply staff, as necessary, to record actions of the Committee and to handle Committee correspondence and public information concerning meeting times and places.

ARTICLE V
SUBCOMMITTEES

One (1) permanent subcommittee of the Committee is established to oversee the major functional area in the transportation planning process where specific products are required:

a. Transportation Improvement Program Subcommittee (TIP) -- to develop and update the five-year TIP, including the Annual Element.

b. Transportation Demand Management Subcommittee (TDM) -- to recommend measures to reduce travel demand for inclusion in the Regional Transportation Plan or funding in the Transportation Improvement Program.

Subcommittees may be established by the Chairperson. Membership composition shall be determined according to mission and need. The Chair shall consult with the full committee on membership and charge before organization of subcommittees. Subcommittee members can include TPAC members, alternates and/or outside experts. All such committees shall report to the Transportation Policy Alternatives Committee.

ARTICLE VI
REPORTING PROCEDURES

The Committee shall make its reports and findings and recommendations to the Joint Policy Advisory Committee on Transportation (JPACT). The Committee shall develop and adopt procedures which adequately notify affected jurisdictions on matters before the Committee.

ARTICLE VII
AMENDMENTS

The Bylaws may be amended or repealed only by the Metro Council.

STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 95-2089 FOR THE PURPOSE OF
AMENDING THE TRANSPORTATION POLICY ALTERNATIVES COMMITTEE
(TPAC) BYLAWS

Date: January 30, 1995

Presented by: Andrew Cotugno

PROPOSED ACTION

This resolution would amend the TPAC Bylaws as follows:

1. Add implementation of the adopted 2040 growth concept to the requirements to consider in developing the Regional Transportation Plan.
2. Change the reference of the Urban Mass Transportation Administration (UMTA) to the Federal Transit Administration (FTA).
3. Remove reference to the Metro Council Planning Committee to the appointment of citizen members and approval of their alternates since it no longer exists. Selection and appointment of citizen members would remain the responsibility of the Metro Council.

TPAC has reviewed the proposed amendment and recommends approval of Resolution No. 95-2089.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends approval of Resolution No. 95-2089.

AGENDA ITEM 9.2
Meeting Date: February 23, 1995

Resolution No. 95-2090

STAFF RECOMMENDATION

CONSIDERATION OF RESOLUTION NO. 95-2090 FOR THE PURPOSE OF
ESTABLISHING A FINANCING PLAN FOR THE SOUTH/NORTH LIGHT RAIL
PROJECT

Date: January 30, 1995

Presented by: Andrew Cotugno

PROPOSED ACTION

Adoption of the South/North Financing Plan would establish the region's intent to pursue the following funding actions:

1. A minimum 50 percent federal funding share to be sought over the next two Intermodal Surface Transportation Efficiency Acts for a total of \$1.4 billion.
2. One-third of the local share from the Tri-Met General Obligation bond measure approved November 1994.
3. One-third of the local share from the State of Washington. One-half of that share is to be provided by C-TRAN and one-half by the Washington Legislature.
4. One-third of the local share from the State of Oregon.

The proposed financing plan (Exhibit A) includes details of the scheduling of the South/North LRT project, required cash flow, timing, and amount of anticipated receipt of the various sources of funds and proposed source of funds. As a financing plan, each element is subject to approval by the responsible party, as follows:

1. Federal Section 3 funds subject to authorization by Congress, execution of a Full-Funding Grant Agreement by the Federal Transit Administration and annual funding appropriation by Congress.
2. Tri-Met General Obligation bonds subject to approval by the Tri-Met Board of Directors.
3. C-TRAN funding subject to approval by the voters and the C-TRAN Board of Directors.
4. State of Oregon contribution subject to authorization by the Oregon Legislature, execution of a funding agreement with ODOT and biennial appropriation by the Oregon Legislature.
5. State of Washington contribution subject to authorization by the Washington Legislature, execution of a funding agreement with WSDOT and biennial appropriation by the Washington Legislature.

Due to these many required approvals, many specific details are subject to change.

TPAC and JPACT have reviewed this financing plan and recommend approval of Resolution No. 95-2090.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends approval of Resolution No. 95-2090.

Tri-Met Memorandum

Date: February 7, 1995
To: JPACT
From: Dick Feeney
Re: South/North Prospectus

JPACT adoption of the South/North prospectus is an endorsement of the following recommendations:

1. The commitment of \$475 million from Tri-Met through general obligation bonds and \$237.5 million from C-Tran from sales and MVET tax proceeds.
2. A 1995 request to the Congress for authorization of 50 percent of the total project costs. A parallel request for a dollar specific amount of authority of no less than \$775 (includes Hillsboro) of Section 3 "New Start" funds in the next ISTEA reauthorization. (Experience indicates that Tri-Met is likely to receive an authorization of \$600-700 million).

Tri-Met will need to commit all non-federal funds to 1) gain legislative authority in ISTEA for the entire project 2) ensure Federal Transit Administration approval of a full funding contract to construct the approximately \$2 billion first leg of the project and 3), secure contingent authority for the remaining amount of authority required to complete construction of the first leg and to begin construction of the second leg of the project in the subsequent ISTEA.

3. State of Washington funding of \$237.5 million derived from a petroleum import tax and \$475 million of state of Oregon funds derived from lottery backed bonds.
4. The establishment of a C-Tran/Tri-Met task force to investigate opportunities for private sector investments to defray taxpayer expense.

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ESTABLISHING) RESOLUTION NO. 95-2090
A FINANCING PLAN FOR THE SOUTH/)
NORTH LIGHT RAIL PROJECT) Introduced by
Rod Monroe, Chair
JPACT

WHEREAS, The South/North Light Rail Transit (LRT) project was established as the next regional priority by Resolution No. 93-1784; and

WHEREAS, An overall 5 and 10-year transportation financing strategy was established by Resolution No. 94-2009; and

WHEREAS; That strategy included a federal, State of Oregon, State of Washington and regional funding approach to the South/North LRT project; and

WHEREAS, The voters approved a Tri-Met \$475 million General Obligation bond measure as the first funding step toward the South/North LRT project; now, therefore,

BE IT RESOLVED,

That the Metro Council:

1. Adopts the South/North Financing Plan as reflected in Exhibit A.
2. Supports Tri-Met's and ODOT's efforts to pursue innovative funding sources to reduce the need for state and regional sources.
3. Directs staff to develop for consideration by JPACT and the Metro Council alternate phasing plans.

ADOPTED by the Metro Council this _____ day of _____, 1995.

J. Ruth McFarland, Presiding Officer

EXHIBIT A

**FINANCING PLAN
FOR THE
SOUTH/NORTH LRT PROJECT**

January 30, 1995

STATE OF OREGON MATCHING FUNDS FOR THE SOUTH/NORTH LRT PROJECT:
Executive Summary

- A commitment of matching funds from Tri-Met, C-TRAN and the States of Oregon and Washington is needed during 1995/96 to secure an earmarking of Section 3 funds for the South/North LRT Project in the upcoming federal transportation authorization bill.
- The State of Oregon's share of matching funds for the South/North LRT Project is proposed to be one-sixth of total construction costs which is estimated to be \$475 million.
- To attain this State contribution, the JPACT Finance Committee recommends that:
 - [a] The 1995 Legislative Assembly authorize a total lottery commitment to light rail transit (LRT) of \$40 million per year beginning in FY 2000. This stream of funds would be used to pay the State's share of both the Westside LRT and the South/North LRT. Until FY 2000, the State would continue its current \$10 million per year commitment to the Westside LRT.
 - [b] The funds made available to the South/North LRT Project by this authorization be used to support about a \$95 million cash contribution to the project and to repay a \$380 million bond contribution to the project.
 - [c] The 1995 Legislative Assembly authorize the issuance of lottery bonds for the South/North LRT Project which are also coupled (or "wrapped") with a "moral obligation" of the State to appropriate other State funds to repay the debt if lottery revenues are insufficient to meet debt service requirements. The "moral obligation" commitment is needed to allow for a long-term (25 - 30 year) lottery bond. Without such a commitment, the maximum term of a bond solely backed by lottery revenues might be 15 years.
- Subsequent to legislative approval, Tri-Met would enter into an agreement with ODOT which commits the state's matching funds, subject to receipt of a federal funding commitment, in order to demonstrate a fully-committed 50% share of non-Section 3 funds prior to the mark-up of the next federal authorization bill.
- In addition to the state matching funds, the State may be asked to provide credit enhancements to support interim borrowing requirements caused by the cash-flow limitations of federal funds.
- The following oversight functions would be established for State:
 - [a] The criteria currently required by state statute for the ODOT Director's release of State matching funds for the Westside LRT project will be required for the release of the State's contribution to the South/North LRT project.

[b] A Steering Group and Project Management Group will be established, similar to those in operation on the Westside Project, which will provide ODOT ongoing involvement in key project management decisions.

- A task force would be formed to determine if there are other funding sources that can be used for South/North LRT Project which reduce the funding requirements of the State and regional property-owners.

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I. OVERVIEW OF FINANCING PLAN

1.1 Background

In reviewing the proposed financing plan, it is important to consider the unique facets of securing federal funding for LRT projects. The fact that Section 3 New Start funds, the source of federal funding for LRT, are discretionary funds alters the character of the financing plan, the timing of securing funding commitments and the strategy for implementing the financing plan.

In particular, as evidenced by ISTEA, to receive Section 3 funding for an LRT project, it is necessary to have the Section 3 funds earmarked in the transportation authorization bill. If a project is not earmarked in the upcoming authorization bill, it will almost certainly have to wait another five or six years (until the next authorization bill) for another opportunity for federal funding.

Beyond sheer political muscle, it will be necessary to demonstrate the local financial commitment to get a project earmarked in the upcoming authorization bill. The existence of local funding commitment was a major consideration in the earmarking within ISTEA, but some projects without local commitments got earmarked. Since that time, most of the earmarked projects which did not have a local funding commitment have faltered. Congress has vented its frustration about tying up federal funds on projects which do not proceed and, as a result, has intensified its requirement that local funding be committed as a pre-condition for future earmarkings.

The current ISTEA terminates on September 30, 1997. However, ODOT and Tri-Met have learned from their federal representatives that the Administration intends on marking-up an authorization bill during calendar 1995 and reporting the bill to Congress in early 1996 for adoption during September 1996. Thus, it is necessary to establish state and local funding commitments in 1995 and seek an earmarking for federal funds in 1996 or delay project funding until the year 2001 or 2002. It is important to note that at this time we need a "commitment" of funds, not "the money in-hand".

There are several worrisome but unavoidable uncertainties which result from these circumstances including:

- [a] State and local funding commitments must be made before the project is fully defined and highly reliable cost estimates, based on detailed engineering, exist;
- [b] State and local funding commitments must be made based on assumptions about what might be included in the mark-up of the federal transportation authorization bill and how congressional deliberations might proceed;
- [c] Beyond the authorization bill, the financing plan must also be based on assumptions about future levels of federal transportation appropriations which in turn have a significant impact on the size and nature of the financing plan.

These uncertainties will lead to questions about the financing plan which do not always have definitive answers. Accordingly, the financing plan must be evaluated on its ability to accommodate a variety of circumstances and not on its ability to render static answers to unanswerable questions.

As part of this background, it is also important to introduce the concept of the "Full Funding Grant Agreement (FFGA)" which Tri-Met must enter into with the FTA to receive the federal funds. It is important to note that FTA will only execute FFGAs which fully fund an operable segment of a project. That is, the combination of federal, state and locally committed funds must be sufficient to build an entirely operational line.

If, for example, federal funds are not earmarked in the authorization bill, then FTA will not execute an FFGA which requires the use of federal funds to construct an operational line. If, however, the authorization bill includes an earmarking which is insufficient to fund a full-length project but is sufficient, when added to the committed state and local funding, to build a shorter (but fully operational) line, FTA will execute an FFGA for the shorter line (Minimum Operable Segment (MOS)). The notion of an MOS is important to the financing plan which is proposed later in this report.

1.2 Capital Costs

The total capital cost for the South/North LRT project between Clackamas Town Center and 99th Street in Clark County is estimated to be \$2.85 billion in year-of-expenditure dollars. Year-of-expenditure dollars were calculated from a 1994-dollar capital cost estimate using a construction scheduling computer model developed for the Westside LRT project. The preliminary schedule assumes a full funding contract with the Federal Transit Administration would be executed in early 1998, a least-time construction schedule would be followed and construction would be completed in 2007.

It must be noted that the capital cost estimates are based on a pre-Preliminary Engineering level-of-detail. Furthermore, there are a variety of design options in many segments which could effect the construction cost. These uncertainties are addressed in the year-of-expenditure estimate by the inclusion of a 35% contingency on engineering estimates. In sum, by accepting the \$2.85 billion construction cost estimate as a basis for making funding requests, the project has, in essence, assumed a maximum budget for capital construction. From this point on, project decisions on design elements and schedule will be made so as to ensure they fit within the maximum budget.

In Section 1.1, the concept of Minimum Operable Segments (MOS) was introduced. It should be noted that the MOS for the South/North LRT project would be an LRT line between downtown Vancouver and downtown Milwaukie. While such a line would not fully address the objectives of the project, it would be a workable line with sizeable benefits. The estimated YOE cost for the Milwaukie CBD-to-Vancouver CBD MOS is \$2.10 billion. The relevancy of the MOS and its associated cost will be made apparent below.

1.3 Availability of Federal Funds

1.3.1 Federal Authorization Options

The financing plan for the South/North LRT project is premised on a Section 3 share of 50%, or \$1.425 billion. The reader should note that this is the "Section 3 share" not the "Federal share" which would include any formula flexible funds (STP or NHS) that may be employed in the funding plan. It should be noted that the Portland region already has a need for about a \$100 million earmarking in the upcoming authorization bill for the Westside (system-related costs)/ Hillsboro project. Thus, the total Section 3 authorization request would be about \$1.525 billion.

It is important to consider the three types of authorization that may be available in the next authorization bill: "*outright authorization*", "*contingent commitment*" and a "*program of interrelated projects*". Regardless of which type of authorization is ultimately achieved, it will be necessary to demonstrate that there is a sufficient commitment of local and state funds to match the construction of the entire project.

"Outright authorization" implies that the funds allocated the project are legally available to the project over the life of the authorization bill although their actual receipt depends on future decisions by the appropriation committees. While an "outright authorization" is a necessary condition to be able to borrow to meet project cash-flow requirements, it is not sufficient to meet the project's borrowing needs. This is due to the fact that debt markets deeply discount the "outright authorization" when funds are borrowed against it.

A "contingent commitment", on the other hand, represents a commitment of funds subject to a future authorization bill. Thus, while funds are legally obligated to a project, funds are not to be appropriated towards such commitments in the current authorization period. This is a new authority permitted by ISTEA which has not yet been applied in practice, but will be soon be applied to the Hillsboro Extension. In the borrowing program for the Westside LRT, the debt markets gave borrowing credit for the anticipated Hillsboro "contingent commitment" through a formula similar to that used for borrowing against an "outright authorization", but only after an FFGA is signed which includes the "contingent commitment". Until such an FFGA is signed, no borrowing credit is given for the "contingent commitment".

The "program of interrelated projects" differs from the first two options in that it does not afford a legal funding commitment to a portion of the project, instead it establishes a policy regarding a future extension(s). The Westside/Hillsboro LRT project is an example of a "program of interrelated projects" in ISTEA. ISTEA gave an "outright commitment" of funds to the Westside LRT to SW 185th Street. In addition, ISTEA expressed an intent or, at least, an acknowledgement that the Hillsboro Extension would be included in a future amendment to FFGA for the Westside LRT project. While this level of commitment is clearly inferior to the first two, it provides a political basis to bridge authorization bills when a legal commitment was not achievable.

1.3.2 Assessment of Federal Authorization Options

Outright Authorization: Based on previous experience and assuming historic levels of national Section 3 authorization, the total Westside/Hillsboro and South/North request of \$1.525 billion is beyond that which can reasonably be expected as an "outright authorization". Thus, a financing plan premised on a fully outright authorized project is not judged to be viable and will not be further considered in this report.

Partial Outright Authorization/Partial Contingent Commitment: As stated earlier, it is possible to get an FFGA for a shorter but operational line (an MOS) with the opportunity to effectuate a contingent clause when additional funding is made available to the project. The best way to implement such a strategy is to secure an "outright authorization" for the MOS and a "contingent commitment" for the extension.

In the case of the South/North LRT project, this would require a \$1.15 billion "outright authorization" of Section 3 funds (this includes \$1.05 billion for the South/North MOS and \$100 million to close-out the Westside/Hillsboro project) and a \$375 million "contingent commitment" for the extension of the MOS to 99th Street in Clark County and to the Town Center area in Clackamas County would be earmarked in the upcoming authorization bill.

The \$1.15 billion Section 3 authorization is probably too large of an "outright authorization" request, so a back-up variation has been identified. Since the MOS is estimated to cost \$2.1 billion and the proposed local and state match for the full project is \$1.425 billion, only \$675 million needs to be "outright authorized" in order to demonstrate sufficient funding commitments to construct the MOS. The overmatch (the amount of state and local funds in excess of 50% of the MOS cost) can be used to construct the MOS and then match the "contingent commitment" when these funds are effectuated. Thus, under the variation, a \$775 million "outright authorization" of Section 3 funds (\$675 million for the South/North LRT MOS and \$100 million for Westside/Hillsboro LRT) and a \$750 million "contingent commitment" (for extensions to the South/North LRT MOS) would be earmarked in the upcoming authorization bill.

Partial Outright Authorization/Partial Program of Interrelated Projects: The required dollars would be similar to the above option and variation except that a "contingent commitment" would not be included in the earmarking. Instead some statement of intent, whether as a "program of interrelated projects" as in ISTEA or some similar bill or report language, would be included. While not as powerful as a "contingent commitment", this option is more easily achievable and could provide the basis for a later "contingent commitment" enacted by the Administration.

1.4 Allocation of Non-Section 3 Shares Between the States of Oregon and Washington

Metro, C-Tran and Tri-Met have been working to determine an equitable formula for allocating the local share of the capital costs (\$1.425 Billion). Two methods for computing the relative shares of the capital cost were identified: *Ridership* and *Population*.

The "Ridership" methodology assumes that the capital cost of the project should be allocated on the basis of the relative number of South/North LRT trips that have a production and/or attraction in Oregon versus Washington. This is shown below:

	Daily Trips	Per Cent
Number of South/North LRT Trips with a Washington Production and/or Attraction	23,435	31.2%
Number of South/North LRT Trips with an Oregon Production and/or Attraction	51,720	68.8%

The "Population" methodology assumes that the relative populations within the corridor served by LRT correlates well with ridership and benefit and is simpler to understand than "productions and attractions". There are two possible years to use as the basis for determining C-TRAN's share of the South/North :

- 1994: Because it is the current year and the year agreement is reached.
- 1998: Because it is the year that the FFGA is projected to be executed and construction becomes real (and starts).

Based on these years, C-TRAN's share of South/North would be as follows:

Base Year to Pro-Rate Share	S/N Corridor Population	Population in Clark Co.	% in Clark County	% in Oregon
1994	552,422	184,525	33.4%	66.6%
1998	578,509	198,829	34.4%	65.6%

Upon consideration of all of these possibilities, it was recommended that the C-Tran/Washington share of the non-Section 3 capital requirements should be one-third or \$475 million. As a result, the Tri-Met/Oregon share should be two-thirds or \$950 million.

1.5 Allocation of Tri-Met/Oregon Share Between the State of Oregon and Tri-Met

In total, it is proposed that Tri-Met and the State of Oregon contribute two-thirds of the non-Section 3 funds needed to construct the project. This is estimated to amount to \$950 million. It is further proposed that this total be split evenly between Tri-Met and the State. As a result, the State is requested to contribute one-sixth of the project cost, or \$475 million based on current estimates. The 50/50 split between Tri-Met and the State is the same relationship that was agreed-upon for funding the Westside/Hillsboro LRT project. The rationale for the State's participation includes:

- [a] *Oregon Income Tax Derived from Construction of the Project:* About \$160 million.
- [b] *Oregon Income Tax Derived from Operation of the Project:* About \$50 million by 2015.

- [c] *Reduced Unemployment and Other Welfare Requirements on the State:* The construction and operation of the South/North LRT Project creates about 60,000 job-years (number of jobs multiplied by the number of years they exist) over a 20-year time horizon.
- [d] *Compliance with State Requirements Regarding Urban Sprawl and VMT:* Creates the ability to encourage a compact Portland region with transit-supportive land uses within the urban area and, as a result, achieve a 20% reduction in per capita VMT as required by the State's Transportation Planning Rule.
- [e] *State Implementation Plan Benefits:* A major component of the State Implementation Plan (SIP), the federally required air quality plan for the Portland region, is a major transit expansion. Maintenance of air quality standards allows for reduced federal regulations on future development, saving business millions of dollars per year in air pollution control costs. In addition, compliance with the SIP is required to maintain eligibility for federal transportation funds.
- [f] *Achievement of Region 2040 Plan Objectives and a Reduced Cost of Urban Sprawl:* The Region 2040 Plan establishes a long-term policy on urban containment and transit-supportive land uses within the urban area. These policies result in massive savings in infrastructure costs, including arterials and collectors. This Plan and its related fiscal benefits would not be feasible without a light rail system.

II. RECOMMENDED FINANCING PLAN

2.1. Implementation Framework

The financing plan is premised on executing a Full Funding Grant Agreement which allows for the staged implementation of the South/North LRT project between the Clackamas Town Center and 99th Street in Clark County. Stage 1, which would start soon after the federal authorization bill passes, would construct an MOS between the Milwaukie CBD and the Vancouver CBD. Stage 2 would construct the extensions from the MOS to the desired termini. Stage 2 would hopefully overlap the latter part of Stage 1 but, depending on events, might be sequential to Stage 1.

To allow for the fastest practical construction schedule, the financing plan would "advance spend" local and state funds (under a Letter of No Prejudice which would ensure such funds would later count as local match) and short-term borrow to fill federal cash-flow gaps.

2.2 Federal Funding Participation

2.2.1 Federal Authorization Strategy

Over the next two authorization bills, Tri-Met will seek a 50% federal share for the South/North LRT project. Based on current estimates, this will amount to \$1.425 billion.

To secure the commitment for such funds, Tri-Met would implement a federal authorization strategy consisting, in priority order, of the following request and back-ups:

First Request: Earmark both a \$1.15 billion "outright authorization" of Section 3 funds (\$1.05 billion for the South/North MOS and \$100 million for the Westside/Hillsboro project) and a \$375 million "contingent commitment for the extension of the MOS to 99th Street in Clark County and to the Town Center area in Clackamas County in the upcoming authorization bill. It should be understood that this request for authorization is extremely large and not likely to be achievable. However, it provides Tri-Met with the ability to compromise, as part of the congressional deliberations, to *Back-Up 1* which is likely the best achievable option.

If First Request Fails, Back-Up 1: Earmark both a \$775 million "outright authorization" of Section 3 funds (\$675 million for the South/North LRT MOS and \$100 million for Westside/Hillsboro LRT) and a \$750 million "contingent commitment" (for extensions to the South/North LRT MOS) in the upcoming authorization bill. It is anticipated that the "contingent commitment" would automatically become an "outright authorization" upon enactment of the authorization bill following the one to be adopted in 1996 (or 1997).

If Back-Up 1 Fails, Back-Up 2: Earmark an "outright authorization" of \$775 million of Section 3 funds for the MOS and a "program of interrelated projects-type" commitment for the extensions. Tri-Met would then have to seek an "outright authorization" of \$750 million of Section 3 funds (or more if the construction schedule has to be elongated) in the federal authorization bill following the one to be adopted in 1996 (or 1997).

2.2.2 Federal Appropriations Considerations

While the federal authorization level defines the ultimate level of federal financial involvement, the actual amount of funds available to the project at any point at time is a function of the appropriations process. Because (i) the amount of funds earmarked to different projects may exceed the total amount of funds authorized and (ii) congress has regularly chosen not to appropriate the full amount of funds authorized, it is virtually certain that the funds appropriated to the project will not (i) meet the cash flow needs of the project and, (ii) over the period covered by the authorization bill, will not total the amount authorized for the period. Thus:

- [a] There will be a need for interim financing, and
- [b] The receipt of Federal funding for the project will likely bridge three authorization bills.

The base analysis shown later in this report assumes that federal funds would be appropriated to the project at a uniform rate of \$100 million per year. A sensitivity analysis, also shown later, shows the impact of lower federal appropriations.

2.3 C-Tran/State of Washington Funding Participation

It is proposed that, in total, C-Tran and the State of Washington contribute one-sixth of the total capital cost for the project. This is estimated to be \$475 million. C-Tran will likely propose to the State of Washington that they evenly split this funding requirement.

C-Tran's \$237.5 million funding contribution would come from bonds backed by a 0.3% sales tax and a 0.3% motor vehicle excise tax imposed within Clark County. C-Tran has scheduled an election for February 1995 to seek voter approval of these taxes. This analysis assumes that the bonds would be issued in their entirety at the beginning of the construction period. Current thinking regarding the State of Washington's \$237.5 million contribution is that it would be provided in installments over the construction period (this analysis assumes these installments would be equal).

2.4 Tri-Met Funding Participation

It is proposed that Tri-Met would contribute one-sixth of the total project capital cost. Tri-Met's share would be paid from the \$475 million bond measure recently approved by 65% of the region's voters. This analysis assumes that these bonds would be issued in their entirety at the beginning of the construction period.

2.5 State of Oregon Funding Participation

It is proposed that the State of Oregon would contribute one-sixth of the total project cost or, based on current estimates, \$475 million. The financing plan identified for the State's contribution requires the 1995 Legislative Assembly to authorize a total lottery commitment to light rail transit (LRT) of \$40 million per year beginning in FY 2000. There does not have to be an appropriation of lottery funds to the South/North LRT Project until the FY 2000 - 2001 biennium.

Until FY 2000, the State would continue its current \$10 million per year commitment to the Westside LRT. Beginning in FY 2000, the \$40 million per year stream of funds would be used to pay the State's share of both the Westside LRT and the South/North LRT. The State's commitment to the Westside LRT Project would continue to be \$10 million per year until FY 2009 when the Westside LRT bonds are repaid. The remaining funds would be made available to the South/North LRT and would be used to support a cash contribution to the project and to repay a bond.

Bond underwriters view lottery bonds as risky securities, thus they have been reluctant to issue bonds solely backed by lottery proceeds which are long-term. Accordingly, the financing plan calls for legislative authority to issue lottery bonds for the South/North LRT which are coupled (or "wrapped") with a "moral obligation" of the State to appropriate other State funds to repay the debt if lottery revenues are insufficient to meet debt service requirements. Such bonds would be similar to so-called "double-barrel" bonds in that the basic credit obligation upon which the bondholders would rely would be the State's "moral obligation" to cover shortfalls, but the annual debt service would be paid by lottery funds.

The "moral obligation" commitment is needed to allow for a long-term (25 - 30 year) lottery bond. Without such a commitment, the maximum term of a bond solely backed by lottery revenues might be 15 years, which would require significantly higher annual lottery appropriations to support the required bonding.

It should be noted that this assumes that the lottery funds allocated to the South/North LRT project would be given the same priority as those allocated to the Westside LRT project. That is, the South/North LRT would have "first call" on annual lottery proceeds (e.g., the allocation of lottery funds to the South/North LRT project would come before almost all other project allocations), eliminating the need to use some of the funds allocated to the South/North LRT project as "coverage" and, thereby, decreasing their leverage.

It also should be noted that while the \$40 million per year of lottery funds would be pledged to repay the debt, the actual funds used to repay the debt could come from any state source or combination of sources. Even if other state funding sources are to be used, the amount of lottery funds pledged should still, in itself, be sufficient to repay the debt. The reason for making such a pledge of lottery funds is to maximize the marketability of the bonds and, thereby, reduce the interest costs to the State.

In order to maximize the likelihood of receiving an earmarking for the project in the upcoming federal authorization bill, a commitment of the State's entire share will have to be in place by the end of 1995 or very early in 1996. To accomplish this, ODOT and Tri-Met will need to enter into an intergovernmental agreement which commits the state contribution to the project, subject to a federal funding commitment and the due diligence criteria already established by statute for the ODOT Director.

2.6 Interim Borrowing Needs

As explained in Section 2.2.2, regardless of the type and level of federal authorization, the amount of federal appropriations will not keep pace with cash-flow needs of the project. As a result, interim borrowing will be required. Since the interim financing requirement is expected to be larger than Tri-Met's credit capacity, credit support will likely be necessary from the State of Oregon, State of Washington and C-TRAN. It should be noted that the interest on interim borrowing is a "project cost" and, thus, 50% is repaid with Section 3 appropriations.

Interim borrowing needs will be met, in part, by "advancing" local, state and federal formula funds. In this context, "advancing" means overmatching Section 3 in the early years of the project followed by an equivalent amount of undermatching in the latter years. In addition, the interim borrowing program will have to be supplemented with lines of credit or other short-term debt instruments (such as commercial paper).

The debt service on credit lines and other debt instruments would be repaid by future Section 3 appropriations. However, a credit enhancement, which is a guaranteed source of funds to repay the short-term debt if the federal funds are not appropriated, will be required by banks, underwriters and the debt market. Tri-Met and C-TRAN will provide credit to

support the interim borrowing requirements of the project, but it will not be sufficient. Thus, credit enhancements will be requested from the States of Oregon and Washington in the form of guarantees backed by either (a) identified dedicated revenue streams or (b) "moral obligation" or other similar commitments which meet the requirements and restrictions of state law and are satisfactory to the debt markets.

III. IMPACTS OF FINANCE PLAN ON THE STATE

3.1 Analysis of Proposed Financing Plan

Table 1 illustrates the financing plan which assumes the state and local shares described in Section II and:

- [a] Construction of the MOS between Milwaukie CBD and Vancouver CBD starts in 1998 and ends in 2005 and the construction of Extensions to the Town Center and 99th Street in Clark County overlaps the construction of the MOS in the years 2004 and 2005. The Extensions are completed in the year 2007.
- [b] Section 3 funds would be appropriated to the project at a 50% rate up to a maximum of \$100 million per year until the year 2008 when the federal appropriation begins to rise to a maximum of \$115 million per year.
- [c] State and local funds are advanced to the project to allow it to maintain its schedule. After they are fully expended, interim borrowing is used to meet cash-flow needs.

Table 2 shows the cash-flow requirements upon the State. The following fiscal impacts and issues are identified for this scenario:

- [a] Currently, the State is allocating \$10 million per year of lottery funds to repay the debt on the State's share of the Westside LRT Project. The financing plan assumes that, beginning in FY 2000, the State would allocate a total of \$40 million per year to LRT projects. At first, the South/North LRT Project would receive \$30 million per year of the LRT allocation and the Westside LRT would continue to receive its \$10 million per year allocation. Then in FY 2009, when the Westside LRT bonds are fully repaid, the full \$40 million allocation would be used by the South/North LRT Project. This \$40 million per year allocation would continue until the South/North LRT bonds are fully repaid in FY 2028.
- [b] The lottery funds allocated to the South/North LRT Project would be used in two ways. Funds allocated in FY 2000 through FY 2002 (along with any interest earnings) would be provided to the project on a cash flow basis. The remaining lottery funds would be used to repay debt. In total, about \$95 million would be available to the project as a cash contribution. The long-term maturity allowed by the "moral obligation" commitment and the annual lottery allocations after FY2002 would support about a \$380 bond contribution to the project.

Table 1a: South/North LRT Construction Costs
Millions of Dollars (Year-of-Expenditure Dollars)

Federal FY:	98	99	00	01	02	03	04	05	06	07	08	09	10	11	12	Total
Milwaukie-Vancouver	\$ 20	\$ 88	\$ 260	\$ 515	\$ 496	\$ 315	\$ 155	\$ 23								\$1,871
CTC/99th Extensions							\$ 77	\$ 288	\$ 322	\$ 159						\$ 846
Interim Financing				\$ 1	\$ 1	\$ 1	\$ 2	\$ 8	\$ 19	\$ 27	\$ 25	\$ 21	\$ 16	\$ 10	\$ 2	\$ 133
Total Cost	\$ 20	\$ 88	\$ 260	\$ 515	\$ 497	\$ 316	\$ 234	\$ 319	\$ 341	\$ 187	\$ 25	\$ 21	\$ 16	\$ 10	\$ 2	\$2,850

Table 1b : South/North LRT Financing Plan
Millions of Dollars (Year-of-Expenditure Dollars)

Federal FY:	ISTEA II						ISTEA III						ISTEA IV					
	98	99	00	01	02	03	04	05	06	07	08	09	10	11	12	Total		
Section 3	\$ 10	\$ 45	\$ 100	\$ 100	\$ 100	\$ 100	\$ 100	\$ 100	\$ 100	\$ 100	\$ 110	\$ 115	\$ 115	\$ 115	\$ 115	\$1,425		
C-TRAN	\$238															\$ 238		
Washington	\$ 24	\$ 24	\$ 24	\$ 24	\$ 24	\$ 24	\$ 24	\$ 23	\$ 23	\$ 23						\$ 237		
Tri-Met	\$475															\$ 475		
State: Lottery			\$ 32 ¹	\$ 32 ¹	\$ 411 ²											\$ 475		
Total Revenues	\$747	\$ 69	\$ 156	\$ 156	\$ 535	\$ 124	\$ 124	\$ 123	\$ 123	\$ 123	\$ 110	\$ 115	\$ 115	\$ 115	\$ 115	\$2,850		

[1] \$30 million cash lottery contribution + interest. [2] \$30 million cash lottery contribution + interest + \$379 million from bond proceeds.

Table 2: Lottery Appropriation Needs and Uses

FY	Total LRT Demands on Lottery	Used by Westside	Available to S/N	S/N Construction Fund Deposit	Interest S/N Construction Fund	S/N Bond Proceeds	S/N Debt Service
00	\$40	\$10	\$30	\$30	\$2	\$0	
01	\$40	\$10	\$30	\$30	\$2	\$0	
02	\$40	\$10	\$30	\$30	\$2	\$379	
03	\$40	\$10	\$30				\$30
04	\$40	\$10	\$30				\$30
05	\$40	\$10	\$30				\$30
06	\$40	\$10	\$30				\$30
07	\$40	\$10	\$30				\$30
08	\$40	\$10	\$30				\$30
09	\$40	\$10	\$30				\$30
10	\$40	\$ 3.4	\$36.6				\$36.6
11	\$40	\$0	\$40				\$40
12	\$40	\$0	\$40				\$40
13	\$40	\$0	\$40				\$40
14	\$40	\$0	\$40				\$40
15	\$40	\$0	\$40				\$40
16	\$40	\$0	\$40				\$40
17	\$40	\$0	\$40				\$40
18	\$40	\$0	\$40				\$40
19	\$40	\$0	\$40				\$40
20	\$40	\$0	\$40				\$40
21	\$40	\$0	\$40				\$40
22	\$40	\$0	\$40				\$40
23	\$40	\$0	\$40				\$40
24	\$40	\$0	\$40				\$40
25	\$40	\$0	\$40				\$40
26	\$40	\$0	\$40				\$40
27	\$40	\$0	\$40				\$40
28	\$40	\$0	\$40				\$40
29	\$40	\$0	\$40				\$40

- [c] Section 3 funds must be appropriated to the project over 15 years and three authorization cycles. Moreover, appropriations must occur for five years after the project is complete in order to repay interim borrowing caused by the inability of federal appropriations to keep pace with the project's cash-flow needs.
- [d] Maximum interim borrowing occurs in the year 2007 at which time approximately \$600 million of short-term debt is incurred. Overall, about \$130 million in interest costs accrue to the project.

3.2 Impact of Lower Federal Appropriations

Table 3 illustrates the impacts of a lower level of federal appropriations than that assumed in Section 3.1, above. The number of permutations of lower federal appropriation scenarios is endless. This example shows the impact of a \$10 million per year lower appropriations over a six-year period between the years 2000 and 2005, inclusive. The construction assumption in this scenario is the "sequential" option. That is, the MOS (between Milwaukie CBD and Vancouver CBD) is fully constructed before construction starts on the Extensions (to the Town Center and 99th Street).

This scenario is possible under any of the *Federal Authorization Strategies* discussed in Section 2.2.1, but is particularly likely if *Back-Up Strategy 2* is employed ("contingent commitment" is not available to the project, so a "program of interrelated projects-type of earmark is secured for the Extensions). Under such a scenario, the risk may be judged to be too great to proceed with an overlapping construction schedule.

The following fiscal impacts and issues are identified for this scenario:

- [a] The extension of the construction schedule results in about a \$50 million increase in the overall construction cost. The increase is caused by the fact that the increased inflation costs on the extended construction elements outstrips the savings resulting from reduced interim borrowing needs.
- [b] As a result of the increased costs, the State's contribution to the project budget is increased by about \$8 million (as is Tri-Met's).
- [c] Maximum interim borrowing occurs in the year 2009 when \$485 million of short-term debt is incurred, this is about \$115 million less than the base scenario shown in Section 3.1. Overall, almost \$90 million in interest costs accrue to the project.
- [d] Note that the results reported above represent a modest reduction in appropriation levels. Obviously as lower rates are assumed, the impacts get higher.

Table 3a: South/North LRT Construction Costs: Sequential Construction
Millions of Dollars (Year-of-Expenditure Dollars)

Federal FY:	98	99	00	01	02	03	04	05	06	07	08	09	10	11	12	Total
Milwaukee-Vancouver	\$ 20	\$ 88	\$ 260	\$ 515	\$ 496	\$ 315	\$ 155	\$ 13								\$1,861
CTC/99th Extensions									\$ 87	\$ 324	\$ 363	\$ 180				\$ 954
Interim Financing				\$ 1	\$ 1	\$ 3	\$ 2	\$ 1	\$ 2	\$ 13	\$ 22	\$ 19	\$ 14	\$ 7		\$ 86
Total Cost	\$ 20	\$ 88	\$ 260	\$ 515	\$ 497	\$ 316	\$ 158	\$ 15	\$ 88	\$ 326	\$ 376	\$ 202	\$ 19	\$ 14	\$ 7	\$2,901

Table 3b: South/North LRT Financing Plan: Sequential Construction
Millions of Dollars (Year-of-Expenditure Dollars)

Federal FY:	ISTEA II					ISTEA III					ISTEA IV			Total		
	98	99	00	01	02	03	04	05	06	07	08	09	10		11	12-13
Section 3	\$ 10	\$ 45	\$ 100	\$ 100	\$ 100	\$ 100	\$ 100	\$ 100	\$ 100	\$ 100	\$ 100	\$ 110	\$ 115	\$ 115	\$ 141	\$1,451
C-TRAN	\$242															\$ 242
Washington	\$ 26	\$ 24	\$ 24	\$ 24	\$ 24	\$ 24	\$ 24	\$ 24	\$ 24	\$ 24	\$ 24	\$ 24	\$ 24			\$ 242
Tri-Met	\$483															\$ 483
State: Lottery		\$ 32 ¹	\$ 32 ¹	\$ 32 ¹	\$ 419 ²											\$ 483
Total Revenues	\$761	\$ 69	\$ 156	\$ 156	\$ 543	\$ 124	\$ 124	\$ 124	\$ 124	\$ 124	\$ 124	\$ 115	\$ 115	\$ 115	\$ 141	\$2,901

[1] \$30 million cash lottery contribution + interest. [2] \$30 million cash lottery contribution + interest + \$387 million from bond proceeds.

IV. GOVERNANCE AND MANAGEMENT OF THE PROJECT

4.1 Bi-State Compact

Tri-Met and C-TRAN are in the process of preparing a *Bi-State Compact* for possible submission to the Washington and Oregon legislatures in 1995. The purpose of such a Compact is to establish a cooperative governance and management organization for constructing and operating the South/North LRT system. To accomplish this, three critical steps must be taken:

- [a] Tri-Met and C-TRAN must first reach agreement on the form, structure, scope and powers of the "Authority" to be created and prepare legislation defining these elements;
- [b] Both the Oregon and Washington legislative assemblies would then have to pass the legislation (which must be, for all intents and purposes, identical);
- [c] The legislation approved by both legislatures would then be proposed to the U.S. Congress for enactment.

Once passed by Congress, the Authority would have the powers specified in the legislation.

Based on the current draft of the concept:

- [a] The Authority would oversee the construction and operations of the South/North LRT system;
- [b] It would be governed by a Board of four members consisting of two Tri-Met Board members and two C-TRAN board members;
- [c] The Authority would not directly hire staff but would contract with Tri-Met, C-Tran and private contractors for services;
- [d] The Authority would receive and hold funding contributions and would disburse such funds through contracts; and
- [e] The legislation would define a uniform set of legislation in both States which apply to the construction and operation of the project.

The last point is critical. The legislation of both States regarding the funding and construction of the project is vastly different. There is concern that the administration of such a project would be difficult and would lead to higher than expected costs. The implementation of a Bi-State Compact provides a vehicle for reconciling these problems.

4.2 Current Statutory Pre-Requisites for State Match

The legislation authorizing the state contribution for the Westside LRT project provided the ODOT Director the authority to release funds to the project if and when he/she was satisfied that:

- [a] The local approvals for the project were in place;
- [b] There was sufficient assurances that the other funds needed for the project were in place;
- [c] The project, or the specific phase of the project in question, was certified by JPACT; and
- [d] The capital costs for the elements to be funded by the State were sufficiently known.

Identical criteria will be included in the legislation proposed for the South/North LRT project.

4.3 Steering Group and Project Management Group Role

The Steering Group and Project Management Group to be established for the South/North LRT project would be similar in nature to that currently operating for the Westside LRT project. In particular, ODOT would be invited to actively participate in regularly scheduled meetings for the purpose of making design, budget, scheduling and other project-level decisions.

V. PUBLIC-PRIVATE FINANCING ALTERNATIVES

5.1 Alternative Funding Task Force

A public-private task force would be formed jointly by Tri-Met and ODOT to explore other funding sources than can be used for the South/North LRT Project funding requirements, reducing the requirements on the State and regional taxpayers.

The task force would consist of at least seven members drawn from the Tri-Met Board, the C-TRAN Board, the OTC and private industry. It would be chaired by either a member of the Tri-Met Board or the OTC. It would establish a work program with the help of Tri-Met and ODOT staff, that would analyze all feasible aspects of private sector involvement in funding the Project.

5.2 Allocation of Alternative Funding Resources

The allocation of alternative funding resources should be used whenever possible to offset the burden of the taxpayer's contribution to the Project. This could take the form of:

- [a] A reduction in the amount of the Tri-Met General Obligation Bonds issued, to be paid by regional property taxpayers.
- [b] A reduction in the amount of C-TRAN Revenue Bonds issued, to be paid by Clark County taxpayers.
- [c] A substitution for lottery, General Fund or other funds committed to the Project by the States of Oregon and Washington.

The proportionate distribution of such funds would be decided by the Project Steering Committee, but could be based on the proportion of local match being generated by the potential recipients of these funds and the location (Oregon versus Washington) of the private sector activity which is generating the alternative funding.

AGENDA ITEM 9.3
Meeting Date: February 23, 1995

Resolution No. 95-2094

STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 95-2094 FOR THE PURPOSE OF
AMENDING THE TRANSPORTATION IMPROVEMENT PROGRAM FOR THE
SUNNYSIDE VILLAGE PROJECT

Date: February 15, 1995

Presented by: Andrew Cotugno

PROPOSED ACTION

This resolution would amend the Metro Transportation Improvement Program (TIP) to include the Sunnyside Village neo-traditional project, allowing Clackamas County to seek up to \$2 million in Section 3 Discretionary funds from the Federal Transit Administration.

FACTUAL BACKGROUND AND ANALYSIS

In 1993, Clackamas County, in cooperation with 60 land owners, developed and adopted the Sunnyside Village neo-traditional neighborhood plan. It resulted in a change to their comprehensive plan to allow and encourage development of a neo-traditional neighborhood that is very pedestrian-oriented and containing a significant level of multi-family and small lot single-family housing. The centerpiece of the project is the transit plaza, village green and community/commercial center, part of which is proposed to be publicly funded.

Federal Transit Administration "Section 3" Discretionary funds may be available under their Livable Communities Program to provide funding for this project. Amendment to the TIP would allow Clackamas County to pursue these grant funds.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends approval of Resolution No. 95-2094.



CLACKAMAS COUNTY

Department of Transportation & Development

THOMAS J. VANDERZANDEN
EXECUTIVE DIRECTOR

January 26, 1995

Andy Cotugno
Transportation Director
METRO
600 NE Grand Ave.
Portland, OR 97232-2736

Dear Andy,

I am requesting that TPAC at their January 27, 1995 meeting amend the FY 95 Metro Transportation Improvement Program to include a \$1.6 million Section 3 "Livable Communities" project which would implement the Clackamas County East Sunnyside Village Community Improvement Program. This program includes the purchase and development of the Sunnyside Village transit plaza, village green and community/commercial center.

The transit plaza, village green and community/commercial center are sited to provide the shortest walking and bicycling distance to the greatest number of Village residents and employees. Approximately 8.25 acres in size, this Village "hub" includes a community park and a "community service zone" with a public library and a day care center adjacent to the transit plaza.

The Sunnyside Village Plan is incorporated into the County's Comprehensive Plan and is projected to generate between 10-15% fewer external vehicle trips than a typical suburban development containing identical land uses.

Sincerely,

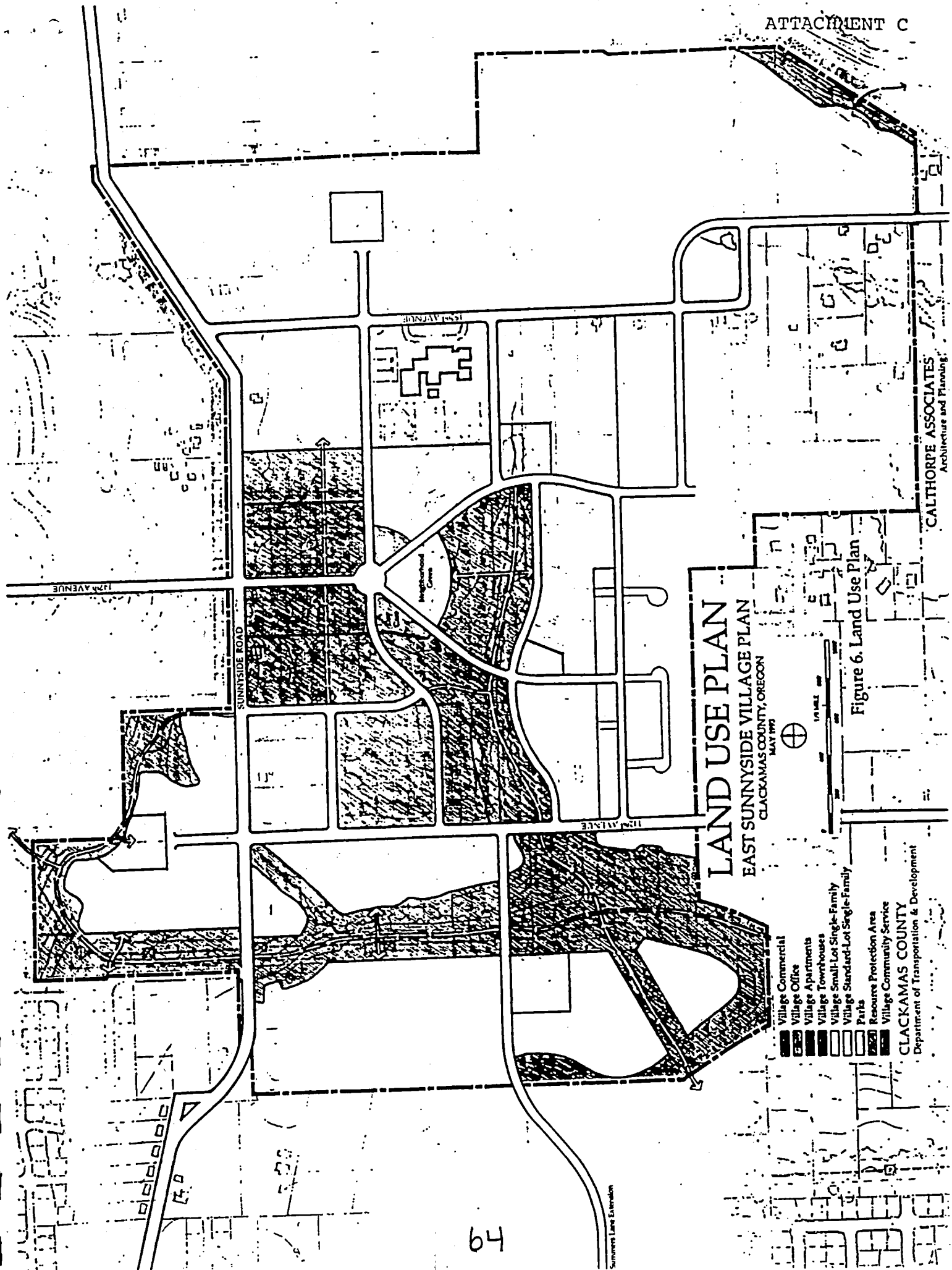
A handwritten signature in cursive script that reads "Thomas J. VanderZanden".

Thomas J. VanderZanden, Director
Department of Transportation and Development

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Clackamas County East Sunnyside Village Community Improvement Program

COMMERCIAL CENTER, COMMUNITY SERVICE PARCELS, TRANSIT PLAZA AND VILLAGE GREEN		TGM GRANTS	G.O. BONDS	SECTION 3 FUNDS	LOTTERY FUNDS
• COMMERCIAL CENTER (3.15 ACRES)					
Acquisition	\$ 450,000	-----	-----	*	-----
• COMMUNITY SERVICE PARCELS (2.4 ACRES)					
Acquisition	\$ 180,000	-----	-----	*	-----
Development (Day Care Center, Library)	\$ 575,000	-----	*	*	-----
• TRANSIT PLAZA					
Design	\$ 20,000	---*	-----	-----	-----
Development & Pedestrian Bike Connections	\$ 350,000	-----	-----	*	-----
• VILLAGE GREEN IMPROVEMENTS (2.7 ACRES)					
Acquisition	\$ 160,000	-----	-----	-----	*--
Design Plan	\$ 15,000	---*	-----	-----	-----
Development	\$ 250,000	-----	-----	-----	*--
TOTAL		\$2,000,000			



LAND USE PLAN
EAST SUNNYSIDE VILLAGE PLAN
 CLACKAMAS COUNTY, OREGON
 MAY 1993

- Village Commercial
 - Village Office
 - Village Apartments
 - Village Townhouses
 - Village Small-Lot Single-Family
 - Village Standard-Lot Single-Family
 - Parks
 - Resource Protection Area
 - Village Community Service
- CLACKAMAS COUNTY**
 Department of Transportation & Development

Figure 6. Land Use Plan

CALTHORPE ASSOCIATES
 Architecture and Planning

Sunnyside Lane Extension

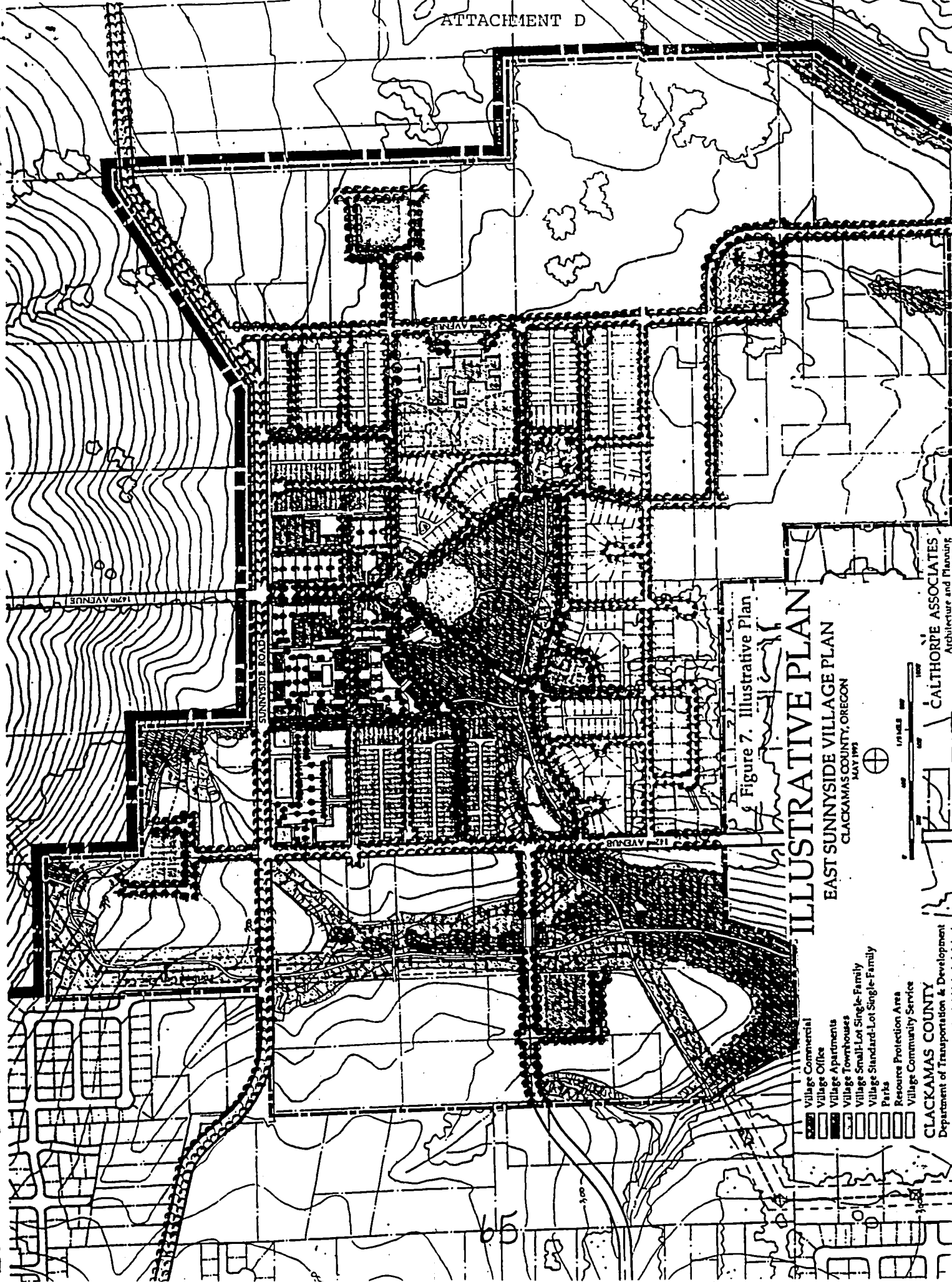


Figure 7. Illustrative Plan

ILLUSTRATIVE PLAN

EAST SUNNYSIDE VILLAGE PLAN

CLACKAMAS COUNTY, OREGON
MAY 1995

- Village Commercial
- Village Office
- Village Apartments
- Village Townhouses
- Village Small-Lot Single-Family
- Village Standard-Lot Single-Family
- Parks
- Resource Protection Area
- Village Community Service

CLACKAMAS COUNTY
Department of Transportation & Development

CALTHORPE ASSOCIATES
Architecture and Planning



BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING) RESOLUTION NO. 95-2094
THE TRANSPORTATION IMPROVEMENT)
PROGRAM FOR THE SUNNYSIDE) Introduced by
VILLAGE PROJECT) Councilor Monroe, Chair
JPACT

WHEREAS, The Federal Transit Administration may have Discretionary grant funds available under their "Livable Communities" Program to fund transit-oriented development projects; and

WHEREAS, Clackamas County has adopted a plan for the Sunnyside Village, a neo-traditional neighborhood; and

WHEREAS, The proposed transit plaza, community/commercial center and village green are proposed publicly funded elements of this project; and

WHEREAS, This type of development is called for in the Region 2040 Growth Concept to encourage higher densities and greater use of alternative modes; now, therefore,

BE IT RESOLVED,

That the Metro Council hereby amends the Transportation Improvement Program to authorize Clackamas County to seek Section 3 Discretionary funds.

ADOPTED by the Metro Council this _____ day of _____,
1995.

J. Ruth McFarland, Presiding Officer

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING)	RESOLUTION NO. 95-2094
THE TRANSPORTATION IMPROVEMENT)	
PROGRAM FOR THE SUNNYSIDE)	Introduced by
VILLAGE PROJECT)	Councilor Monroe, Chair
	JPACT

WHEREAS, The Federal Transit Administration may have Discretionary grant funds available under their "Livable Communities" Program to fund transit-oriented development projects; and

WHEREAS, Clackamas County has adopted a plan for the Sunnyside Village, a neo-traditional neighborhood; and

WHEREAS, The proposed transit plaza, community/commercial center and village green are proposed publicly funded elements of this project; and

WHEREAS, This type of development is consistent with the Regional Transportation Plan and is called for in the Region 2040 Growth Concept to encourage higher densities and greater use of alternative modes; now, therefore,

BE IT RESOLVED,

That the Metro Council hereby amends the Transportation Improvement Program to authorize Clackamas County to seek Section 3 Discretionary funds.

ADOPTED by the Metro Council this _____ day of _____,
1995.

J. Ruth McFarland, Presiding Officer

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING) RESOLUTION NO. 95-2107
THE EXECUTIVE OFFICER TO ENTER)
INTO AGREEMENT TO OPTION PROPERTY) Introduced by Mike Burton,
IN THE TRYON CREEK WATERSHED) Executive Officer

WHEREAS, In July 1992, Metro completed the Metropolitan Greenspaces Master Plan which identified a desired system of natural areas interconnected with greenways and trails; and

WHEREAS, Acquisition of natural areas from willing sellers is a primary strategy for preservation of natural areas; and

WHEREAS, The Option To Purchase Real-Property Agreement is part of Metro's Options Demonstration Project approved by Council Resolution No. 93-1832; and

WHEREAS, Funds to obtain options from willing seller to purchase land are allocated via Council Ordinance No. 93 - 511; and

WHEREAS, A Process for Considering and Executing Options to Purchase Lands was adopted by Council Resolution No. 94-1919; and

WHEREAS, The property, as indicated in Exhibit A, is in a target area as set out in Resolution No. 94 - 2011A which referred a 135.6 million dollar bond measure for public consideration in spring 1995; now, therefore,

BE IT RESOLVED,

That Metro Council authorizes the Executive Officer to enter into an agreement as attached in Exhibit A.

ADOPTED by Metro Council this _____ day of _____, 1995.

J. Ruth Mc Farland , Presiding Officer

OPTION TO PURCHASE REAL PROPERTY

THIS OPTION AGREEMENT (the "Agreement") is made and entered into by and between _____ and _____, husband and wife, (the "Seller") and Metro, a municipal corporation of the State of Oregon organized under Oregon Revised Statutes, Chapter 268, and the 1992 Metro Charter (the "Buyer"), this 30th day of December, 1994.

Agreements:

1. Grant of Option. Seller, in consideration of Metro's promise to pay the sum of \$2,500.00 upon notice from Seller (see Section 2.1 herein), does hereby grant to Buyer the sole and exclusive option to purchase the real property described in Exhibit "A" attached and incorporated by this reference into this Agreement (the "Property") in the manner and for the price stated in this Agreement.

2. Option Terms.

2.1 Previous Agreements. Seller hereby informs the Buyer and the Buyer acknowledges the existing Agreement To Purchase the Property by _____ and/or his consignees. This Option Agreement shall not take effect nor any Option Money be paid until and unless the _____ agreement becomes null and void. Upon the expiration of the _____ agreement the Seller shall notify Buyer, in the appropriate manner and at the herein described notice address, of the expiration. Upon receipt of said notice Metro shall immediately pay the Option Price of \$2,500.00 set forth in Section 1 above. The Seller agrees that upon signing this Option Agreement they will not extend, or delay the expiration of, in any way the foregoing described existing agreement with _____.

This Option Agreement is intended as a back up instrument junior only to the existing agreement between the Seller and _____ and shall take effect upon the date following the failure of the existing agreement but no later than April 16, 1995. Under no circumstances are the existing agreement and this Option Agreement to be in effect at the same time regardless of language which may be construed otherwise elsewhere in this instrument.

2.2 Term. The initial term of the option shall commence on the effective date and shall continue for a period of six calendar months or until October 15, 1995, whichever date shall last occur, but in no event shall the option become effective until the day following the date the existing agreement between Seller and _____ shall expire. Buyer shall have the right to extend the term of the option for an additional period of six calendar months, commencing on the date the initial term expires and ending on or about April 15, 1996 but in no case less than the six calendar months described. Buyer's payment of the first Option Money Payment due under Section 3 after the initial term expires shall be deemed to

Handwritten initials/signature

constitute an election to extend the option to the extended term date above.

2.3 **Exercise of Option.** Buyer may exercise this option by written notice to Seller at any time during the term of this option. Upon exercise of this option, Buyer shall be obligated to purchase the Property from Seller and Seller shall be obligated to sell the Property to Buyer for the price and in the manner herein set forth.

2.4 **Failure to Exercise Option.** If Buyer fails for any reason to exercise this option in the manner set forth herein, Buyer shall have no further claim against or interest in the Property or any of the Option Money Payments, unless Buyer is entitled to a refund of the Option Money Payments under another provision of this Agreement. In the event of the failure to exercise the option, Buyer shall provide Seller with any instruments that Seller reasonably may deem necessary for the purpose of removing from the public record any cloud on title to the Property which is attributable to the grant or existence of this option.

3. **Option Money.** In payment for Seller's grant of this option, Buyer will pay Seller the following "Option Money Payments": (a) After the execution of this Agreement, Buyer will pay Seller the cash sum of \$2,500.00 mentioned in Section 1 and provided in Section 2.1; and (b) if Buyer elects to extend the option term under Section 2.1, Buyer will pay Seller the cash sum of \$1,000.00.

4. **Purchase Price and Terms.** If the Buyer exercises the option, the purchase price shall be the fair market value of the property. Fair market value shall be based on the highest and best use of the property as determined in a full narrative written appraisal prepared by a state certified appraiser selected, retained and paid by Buyer. Payment shall be less any option payments made to Seller pursuant to Sections 1, 2.1 and 3 herein.

The Seller's agreement to the foregoing notwithstanding, the Minimum Sale Price shall be \$ _____ plus _____ to be allocated toward the payment of outstanding Bancrofted Assessments liened against the Property and \$ _____ to be allocated toward payment of any unpaid taxes attributable to the Property, as expressed in Section 11 herein, thereby comprising the total Minimum Sale Price (hereinafter "Minimum Price) of \$ _____.

In the event the Buyer's appraisal of the fair market value of the Property indicates a value of less than the Minimum Price the buyer has the right to declare this agreement null and void and of no further binding effect on Buyer or Seller. It being the intention of the parties that the Option Money received by the Seller shall be considered liquidated damages in this transaction with no further obligation required on the part of the Buyer.

However, the Buyer may elect to proceed to closing, at its sole discretion, by a written notice to Seller. In the event Buyer's appraisal indicates a value greater than the Minimum Price the purchase price shall be determined by Buyer's appraisal, less option payments.

The entire balance of the purchase price shall be paid at closing.

5. Recording. On the effective date, Seller shall execute, acknowledge and deliver to Buyer a memorandum in the form attached as Exhibit B. Buyer will record the memorandum.
6. Possession. Possession of the Property shall remain with Seller, subject to the Covenants in this Agreement, until closing. Buyer shall be entitled to exclusive possession of the Property on and after the closing date.
7. Access to Property. Seller grants to Buyer and its agents the right to enter on the Property at reasonable times before the closing date for the purpose of conducting tests or studies that Buyer may deem necessary or appropriate in connection with its acquisition of the Property. Seller shall cooperate with Buyer in making such tests and studies. No soil tests or drilling shall be undertaken without first notifying the Seller of Buyer's intent to come onto the property and obtaining Seller's approval of the date of entry. Buyer shall not interfere with or disturb the rights of any tenants of Seller in possession of any portion of the Property. Buyer shall protect, defend, and hold Seller harmless from any loss, liability, or damage to persons or property arising out of or related to Buyer's activities on the Property. If Buyer fails to exercise the option and purchase the Property, Buyer shall fully compensate Seller for any physical damage to the Property or charge on it attributable to Buyer's activities pursuant to this paragraph. In the event Buyer fails to exercise the option, Buyer shall deliver to Seller a legible copy of any reports, studies, and drawings owned by Buyer that relate to the Property.
8. Covenants of Seller. Seller acknowledges that the Covenants of Seller contained in this Agreement, including the Covenants contained in this Section 8 (the "Covenants"), are material inducements to Buyer to enter into this Agreement. The Covenants specifically delineated in this section are the following:
 - 8.1 Information. Seller agrees to deliver to Buyer, within 20 days after the effective date, photocopies of all documents related to the use or ownership of the Property that Seller possesses, including (without limitation) all studies, reports, aerial photographs, and other documents of a similar nature.
 - 8.2 Maintenance. Before the Closing Date, Seller shall maintain the Property in the same condition as it now exists, ordinary wear and tear expected, and shall not cause or permit any waste.
 - 8.3 Seller's Promise to Remove Personal Property. Before the Closing Date, Seller promises to remove or cause to be removed from the Property at Seller's expense any and all personal property and/or trash, rubbish, or any other unsightly or offensive materials, unless otherwise agreed to in writing by Buyer.
 - 8.4 Covenant to Maintain Property in Its Natural State. Seller, its successors and assigns hereby covenants, promises, agrees to maintain the Property to retain all its natural features undamaged, unimproved or unchanged in any way.
 - 8.5 Ownership. During the term, Seller shall not sell, contract to sell, assign, lease

or otherwise transfer the Property or any part of it, unless it is transferred subject to this option, nor grant an option to any third party to acquire all or any portion of it.

9. Seller's Representations.

9.1 Seller has full power and authority to enter into this Agreement (and the persons signing this Agreement for Seller, if Seller is not an individual, have full power and authority to sign for Seller and to bind it to this Agreement) and to sell, transfer and convey all rights, title, and interest in and to the Property in accordance with this Agreement.

9.2 The Property has legal vehicular access to a public road.

9.3 No one other than Seller will be in possession of any portion of the Property at the close of escrow.

9.4 There is no suit, action, arbitration, legal, administrative, or other proceeding or inquiry pending or threatened against the Property, or any portion thereof, or pending or threatened against Seller which could affect Seller's title to the Property, or any portion thereof, affect the value of the Property or any portion thereof, or subject an owner of the Property, or any portion thereof, to liability.

9.5 There are no:

(a) Intended public improvements or private rights which will result in the creation of any liens upon the Property or any portion thereof, the previously described existing assessments and past due taxes described in Section 11 herein as of the date of this agreement notwithstanding;

(b) Uncured notices which have been served upon Seller from any governmental agency notifying Seller of any violations of law, ordinance, rule or regulation which would affect the Property or any portion thereof except for those that may herein be acknowledged and/or accepted by the parties;

(c) Actual or impending mechanic's liens against the Property or any portion thereof; and

(d) Notices or other information giving Seller reason to believe that any conditions existing on the Property or in the vicinity of the Property or in ground or surface waters associated with the Property may have a material effect on the value of the Property or subject the owner of the Property to potential liabilities under environmental laws.

9.6 Other than the herein described agreement with _____, there is no

24/17 22

lease, license, permit, option, right of first refusal, or other agreement, written or oral, which affects the Property or any portion thereof.

9.7 Neither the grant nor the exercise of the option will constitute a breach or default under any agreement to which Seller is bound and/or to which the subject Property is subject.

9.8 Hazardous Substances. For purposes of this subsection, the phrase "Hazardous Substances" has the same meaning as is designated in ORS 465.200(9). Seller warrants, represents, and covenants as follows:

(a) To the knowledge of Seller, there are no hazardous substances in, upon, or buried on or beneath the Property and no hazardous substances have been emitted or released from the Property in violation of any environmental laws of the federal or state government;

(b) Seller has not brought onto, stored on, buried, used on, emitted or released from, or allowed to be brought onto, stored on, buried, used on, or emitted or released from, the Property any hazardous substances in violation of any environmental laws of the federal or state government; and

(c) To the knowledge of Seller, no underground storage tanks are located on the Property, including (without limitation) any storage tanks that contain, or previously contained, any hazardous substances, and Seller agrees not to cause or permit any such tanks to be installed in the Property before closing.

9.9 Status of Seller. Seller warrants that Seller is not a foreign person, foreign partnership, foreign corporation, or foreign trust, as those terms are defined in IRC § 1445.

Each of the above representations is material and is relied upon by Buyer. Each of the above representations shall be deemed to have been made as of the close of escrow and shall survive the close of escrow. Seller shall indemnify, defend and hold Buyer harmless from all expense, loss, liability, damages and claims, including Buyer's attorney fees, if necessary, arising out of the breach of any of Seller's warranties, representations, and covenants. Upon close of escrow, if Buyer so requests, Seller shall deliver to Buyer a certificate in a form satisfactory to Buyer's counsel stating that each of the above representations is true and current as of the close of escrow.

If, before the close of escrow, Seller discovers any information or facts that would materially change the foregoing warranties and representations, Seller shall immediately give notice to Buyer of those facts and information. If any of the foregoing warranties and representations cease to be true before the close of escrow, Seller shall be obligated to use its best efforts to remedy the problem before the close of escrow. If the problem is not remedied before close of escrow, Buyer may elect to either (a) terminate this

Agreement in which case Buyer shall have no obligation to purchase the Property, or (b) defer the closing date until such problem has been remedied. Buyer's election in this regard shall not constitute a waiver of Buyer's rights in regard to any loss or liability suffered as a result of a representation or warranty not being true, nor shall it constitute a waiver of any other remedies provided in this agreement or by law or equity.

10. Remedies Upon Default. In the event Seller defaults in the performance of any of Seller's obligations under this Agreement, Buyer shall, in addition to any and all other remedies provided in this Agreement or by law or equity, have the right of specific performance against Seller. In the event Buyer defaults in the performance of any of its obligations under this Agreement, Seller shall have the right to retain the option consideration without thereby waiving Seller's right to recover damages for breach of contract or any other remedy provided in this Agreement or by law or equity.

11. Property Taxes and Expenses. During the term of this option, Seller shall protect the property from foreclosure for taxes and/or assessments up to the closing date. Property taxes shall be prorated for the current year of the sale as of the closing date. Except for the share of the unpaid assessments and past due taxes agreed to be paid by the Buyer described in Section 4 herein, the balance of any assessments and past due taxes attributable to the Property shall be paid by the Seller from the proceeds of this sale or other funds caused to be deposited into escrow by the Seller at closing for that purpose.

12. Closing.

12.1 Time and Place. Closing of the sale and purchase of the Property (the "Closing") shall occur on a date (the "Closing Date") selected by Buyer, but in all events the Closing shall occur within 120 days after the date that the exercise notice is given. The escrow for the Closing shall be established at the office of Transamerica Title Insurance Co. (the "Title Company"), at 111 SW 5th Ave., Portland, OR 97204.

12.2 Closing Obligations. On or before the Closing Date, Seller and Buyer shall deposit the following documents and funds in escrow, and the Title Company shall close escrow in accordance with the instructions of Seller and Buyer.

12.2.1 Seller shall deposit the following:

- (a) Any conveyance documents required by law, and/or described in this agreement, duly executed and acknowledged;
- (b) A duly executed affidavit certifying that Seller is not a foreign person, trust, partnership, or corporation in compliance with the requirements of IRC § 1445;
- (c) Original counterparts of legible photocopies of all documents, feasibility studies, surveys, engineering reports, and other items of a similar nature in the possession of Seller that relate to the

Property;

- (d) Such documents as Buyer or the Title Company may require to evidence the authority of Seller to consummate this transaction; and
- (e) Such other documents and funds, including (without limitation) escrow instructions, as are required of Seller to close the sale in accordance with this Agreement.

12.2.2 Buyer shall deposit the following:

- (a) The cash payment specified in Section 4, minus any credits available to Buyer under the terms of this Agreement;
- (b) Such documents as Seller or the Title Company may require to evidence the authority of Buyer to consummate the transaction contemplated; and
- (c) Such other documents and funds, including (without limitation) escrow instructions, as are required of Buyer to close the sale and purchase of the Property in accordance with this Agreement.

12.3 **Costs.** Buyer and Seller each shall pay one-half of the escrow fee of the Title Company with respect to the Closing. Seller shall pay the premium for the title insurance policy that Seller is obligated to provide to Buyer, and for all conveyance or excise taxes payable by reason of the purchase and sale of the Property. Buyer shall pay the fee (exclusive of any conveyance or excise tax) for recording the conveyance documents referred to herein.

12.4 **Prorations.** All items of expense incurred by Seller with respect to the Property shall be paid by Seller at Closing, without proration. All real property taxes and assessments payable with respect to the tax year in which Closing occurs shall be prorated between Seller and Buyer as of the Closing Date except for the provisions in Section 11 herein.

12.5 **Title Insurance Policies.** As soon as practicable after Closing, and in any event no later than 30 days after the Closing Date, Seller shall cause the Title Company to issue at Seller's expense its standard form Owner's ALTA Title Insurance Policy, with extended coverage, in the amount of the purchase price, insuring fee simple title to the Property vested in Buyer, subject only to the permitted exceptions.

13. **Conveyance.** At the Closing, Seller shall execute, acknowledge, and deliver to Buyer a Statutory Warranty Deed conveying the Property to Buyer, subject only to the permitted exceptions.

14. Waiver. Failure by Seller or Buyer to enforce any right under this Agreement shall not be deemed to be a waiver of that right or of any other right.
15. Successors and Assigns. Subject to the limitations on Seller's right to convey the Property set forth elsewhere herein, the terms, covenants, and conditions herein contained shall be binding on and inure to the benefit of the heirs, successors, and assigns of Seller and Buyer. Buyer may assign its interest in this Option Agreement and the Property to any person or entity, without the consent of Seller. In the event that an assignee assumes the obligations of Buyer hereunder, then Buyer shall have no further liability with respect to this Agreement.
16. Notices. All notices required or permitted to be given shall be in writing and shall be deemed given and received upon personal service or deposit in the United States mail, certified or registered mail, postage prepaid, return receipt requested, addressed as follows:

To Seller: _____

To Buyer: Metro
Attention: Nancy Chase
600 NE Grand Ave.
Portland, OR 97232-2736

The foregoing addresses may be changed by written notice, given in the same manner. Notice given in any manner other than the manner set forth above shall be effective when received by the party for whom it is intended.

17. Attorney Fees. If litigation is instituted with respect to this Agreement, the prevailing party shall be entitled to recover from the losing party, in addition to all other sums and allowable costs, its reasonable attorney fees, both in preparation for and at trial and any appeal or review, such amount to be set by the court before which the matter is heard.
18. No Commission. Each party represents to the other that it has not used a real estate broker under contract to sell the property for a commission in connection with this Agreement or the transaction contemplated by this Agreement. In the event any person asserts a claim for a broker's commission or finder's fee against one of the parties to this Agreement, the party against whom the claim is asserted will hold the other party harmless from said claim.
19. Risk of Loss. Seller shall bear the risk of all loss or damage to the Property from all causes, through the Closing Date. If, before the Closing Date, and regardless of whether the exercise notice has yet been given or is subsequently given, all or part of the Property is damaged by fire or by any other cause of any nature or if all or any portion of the Property is taken by condemnation, or if any such condemnation is threatened,

Seller shall give Buyer written notice of such event. Buyer may terminate this Agreement by giving written notice to Seller within 15 days following receipt by Buyer of written notice from Seller of such casualty or condemnation and Seller will return to Buyer the Option Money Payments previously paid.

20. Integration, Modification, or Amendments. This Agreement contains the entire agreement of the parties with respect to the Property and supersedes all prior written and oral negotiations and agreements with respect to the Property. Any modifications, changes, additions, or deletions to this Agreement must be approved by Seller and Buyer, in writing.
21. Representation. Seller and Buyer have each been represented by separate legal counsel of choice with respect to this transaction. Except as otherwise provided in Section 17, each party shall be responsible for all attorney fees incurred by it with respect to this Agreement.
22. Severability. Each provision of this Agreement is severable from any and all other provisions of this Agreement. Should any provision(s) of this Agreement be for any reason unenforceable, the balance shall nonetheless be of full force and effect.
23. No Merger. The obligations contained in this Agreement, except for those specifically discharged in escrow (such as conveyance title to the Property and delivery of money and documents in the escrow), shall not merge with transfer of title but shall remain in effect until fulfilled.
24. Governing Law; Interpretation. This Agreement shall be governed by the laws of Oregon. In the event a court of competent jurisdiction holds any portion of this Agreement to be void or unenforceable as written, Seller and Buyer intend that (a) that portion of this Agreement be enforced to the extent permitted by law, and (b) the balance of this Agreement remain in full force and effect.
25. Time is of the Essence. Time is of the essence of this Agreement.
26. STATUTORY DISCLAIMER. THE PROPERTY DESCRIBED IN THIS INSTRUMENT MAY NOT BE WITHIN A FIRE PROTECTION DISTRICT PROTECTING STRUCTURES. THE PROPERTY IS SUBJECT TO LAND USE LAWS AND REGULATIONS WHICH, IN FARM OR FOREST ZONES, MAY NOT AUTHORIZE CONSTRUCTION OR SITING OF A RESIDENCE AND WHICH LIMIT LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930 IN ALL ZONES. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND EXISTENCE OF FIRE PROTECTION FOR STRUCTURES.

To be executed on the day and year above described.

SELLER:

BUYER:

By: _____

Name: _____

Title: _____

Attachments:

Exhibit A - Property

Exhibit B - Form of Memorandum

1102 2/17

When recorded, mail to:
Right Of Way Associates
10186 SW Laurel Street
Beaverton, OR 97005
Attn: Nathan R. Pool, Agent

Exhibit B

MEMORANDUM OF OPTION

This is a memorandum of a certain Option Agreement dated December 30, 1994 between _____ and _____ ("Seller"), and Metro, an Oregon municipal corporation ("Buyer"). By said Option Agreement, Seller has granted to Buyer an exclusive option to purchase that certain real property in Multnomah County, Oregon, described in Exhibit A attached herein and incorporated herein by this reference.

Said option extends from the date of the Option Agreement through and including April 15, 1996 or one calendar year from the date of the Option Agreement, whichever is later, at which time it shall automatically expire.

SELLER:

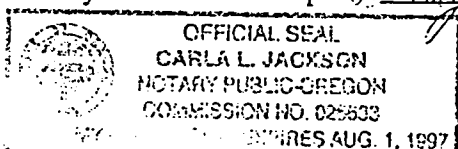
State of Oregon)

County of Multnomah)ss

On this 30 day of Dec, 1994, before me _____, the undersigned Notary Public, personally appeared _____ and _____, personally known to me (or proved to be on the basis of satisfactory evidence) to be the person(s) whose name(s) is (are) subscribed to this instrument, and acknowledged that he (she or they) executed it.

Carla L. Jackson

My commission expires: Aug 1, 97



[Handwritten signature]