

**RESOLUTION No. 3 6 9 7 6**

Authorize up to \$3.5 million in 10-year interfund capital loans from CityFleet Operating, Facilities Services Operating and Technology Services Funds to the General Fund for reimbursement to the Water Bureau of expenditures for acquisition, construction and renovation of certain assets, for potential expenses associated with the Willamette Harbor Superfund site, and to transfer management responsibility for certain assets between the Parks Bureau and Water Bureau (Resolution)

WHEREAS, the Portland City Council has broad authority under the Charter of the City of Portland to operate the City’s water system, including express authority under Section 11-101 to “acquire, keep, maintain, improve, alter and change all plants and facilities found appropriate by the Council for furnishing water to the City . . . [and to] acquire by purchase or otherwise, own and possess real and personal property or interests therein, within and without the limits of the City, which the Council finds necessary or convenient;” and

WHEREAS, all property owned by any City of Portland bureau is held in the name of the City, while use and management of property can be assigned to particular bureaus; and

WHEREAS, the Council adopted Ordinance No. 182558 on February 25, 2009, finding that it was necessary and convenient to transfer certain Water Bureau property which was not being utilized by the Water Bureau to the Bureau of Parks and Recreation (the “Mt. Tabor Property”) and certain other property which was managed by but not needed by the Bureau of Parks and Recreation to the Water Bureau (the “McCall’s Property”); and

WHEREAS, the property transfer authorized by Ordinance No. 182588 was necessary and convenient because it protected the City’s property interests and real property assets, facilitated useful operation of City properties, and supported the City’s mutually beneficial relationship with the Portland Rose Festival Foundation (“PRRF”); and

WHEREAS, the Water Bureau renovated the McCall’s Property and the City entered into a long-term lease with PRRF, all to the benefit of the interests of the City; and

WHEREAS, from 2010 to 2012, the Water Bureau expended staff time to monitor and enforce the City’s renewable fuels standard; and

WHEREAS, the transfer of land between the Water Bureau and Parks Bureau and the Water Bureau expenditures for renovation of the McCall Property have been challenged in a lawsuit brought in Multnomah County Circuit Court, *Anderson v. City of Portland*, in which the plaintiffs have alleged that these expenditures are for a use unrelated to the provision of water services and allegedly not authorized under the City Charter; and

WHEREAS, the Council disagrees with and rejects the narrow legal interpretation of the City Charter advanced by plaintiffs in that case and expressly finds that the Charter does not limit the Council’s authority to spend water funds to only those circumstances in which the primary

purpose of the expenditure is to promote the objectives of the water services and in which the expenditures are reasonably calculated to promote those objectives; and

WHEREAS, the Council expressly finds that the Charter grants the Council broad discretionary authority to make "all necessary expenditures" to carry out the purposes of the water system, including the purposes of furnishing water to the City and its inhabitants, selling water to other communities and persons outside City limits, and advancing policies that promote the wise use and the conservation of the City's water resources, "on terms and conditions which the Council finds appropriate" (Sections 2-105(a)(31) and 11-101), and to "do any acts in the operation, maintenance, improvement and extension of City water works which the Council finds necessary or advantageous," including authority to "rent or lease equipment or facilities to or from others" and to "sell or otherwise dispose of City property, facilities, supplies or equipment as it finds convenient" (Section 11-102); and

WHEREAS, the Council believes Ordinance No. 182558 was within the Council's Charter authority; and

WHEREAS, Council has nonetheless reviewed the arrangements authorized by Ordinance No. 182588 and has determined that the renovation and use of the McCall Property has significant benefits to the City as a whole; and

WHEREAS, Council is accordingly exercising its discretion at this time: (1) to fund the renovations to the McCall Building and maintenance expenses under the existing lease from the City General Fund by reimbursing the Water Bureau for its expenditures on that project; (2) to reverse the land transfer between the Parks Bureau and the Water Bureau; and (3) to assign management of the McCall Building to the Office of Management and Finance; and

WHEREAS, the Council has determined that the City also benefits from allowing the Parks Bureau to continue using the Mt Tabor Property while the Water Bureau has no immediate need for its use; and

WHEREAS, the City is a potentially responsible party at the Portland Harbor Superfund Site; and

WHEREAS, the City desires to see the restoration of the Willamette River for the benefit of the citizens of Portland and intends to implement actions and urge others to implement that goal as early as reasonably possible;

NOW, THEREFORE, BE IT RESOLVED, that a 10-year capital loan is hereby authorized immediately from the CityFleet Operating Fund to the General Fund in the not-to-exceed amount of \$1,250,000; and

BE IT FURTHER RESOLVED, that a 10-year capital loan is hereby authorized immediately from the Facilities Services Operating Fund to the General Fund in the not-to-exceed amount of \$1,250,000; and

BE IT FURTHER RESOLVED, that a 10-year capital loan is hereby authorized immediately from the Technology Services Fund to the General Fund in the not-to-exceed amount of \$1,000,000; and

BE IT FURTHER RESOLVED, that the repayment of principal will be completed according to the schedule below; and

<u>Date</u>	<u>CityFleet Operating</u>	<u>Facilities Services Operating</u>	<u>Technology Services</u>	<u>Total Principal</u>
6/1/2013	\$48,504	\$48,504	\$38,803	\$135,811
6/1/2014	\$48,747	\$48,747	\$38,997	\$136,491
6/1/2015	\$49,113	\$49,113	\$39,290	\$137,516
6/1/2016	\$49,604	\$49,604	\$39,683	\$138,891
6/1/2017	\$50,348	\$50,348	\$40,278	\$140,974
6/1/2018	\$192,866	\$192,866	\$154,293	\$540,025
6/1/2019	\$196,724	\$196,724	\$157,379	\$550,827
6/1/2020	\$200,658	\$200,658	\$160,527	\$561,843
6/1/2021	\$204,671	\$204,671	\$163,737	\$573,079
6/1/2022	\$208,765	\$208,765	\$167,013	\$584,543
Total	\$1,250,000	\$1,250,000	\$1,000,000	\$3,500,000

BE IT FURTHER RESOLVED, that the repayment of the loan will include accrued interest at the rate of return on moneys invested in City of Portland's investment pool; and

BE IT FURTHER RESOLVED, that the primary source of repayment of the loan mentioned above is General Fund discretionary resources; and

BE IT FURTHER RESOLVED, that the Financial Planning Division is directed to transfer \$1,596,037 in interfund loan proceeds from the General Fund to the Water Bureau to pay for McCall Building renovations and interest on Water Bureau funds invested in those renovations; and

BE IT FURTHER RESOLVED, that the Financial Planning Division is directed to transfer \$23,295 from the General Fund contingency account to the Water Bureau in the FY 2012-13 Fall Budget Monitoring Process to reimburse it for operating and maintenance costs at the McCall Building during 2011 and 2012 and expenses for enforcement of the City's renewable fuel standards, plus interest; and

BE IT FURTHER RESOLVED that the Financial Planning Division shall be authorized to borrow the remaining \$1,891,963 in interfund loan proceeds as needed for purposes of paying for potential capital-eligible obligations associated with the Portland Harbor Superfund Designation and other City capital expenses; and

BE IF FURTHER RESOLVED, that the McCall's property is hereby transferred back to the Parks Bureau, subject to the existing lease with the PRRF, with management and maintenance

responsibility assigned to the Office of Management and Finance, and the Mt. Tabor property is transferred back to the Water Bureau, with the management and maintenance responsibility remaining with the Parks Bureau; and

BE IT FURTHER RESOLVED, that the Bureau of Financial Planning is directed to add \$10,000 to the Office of Management and Finance's FY 2013-14 Current Appropriation Level target to pay for operations and maintenance at the McCall Building.

Adopted by the Council: NOV 07 2012

Mayor Sam Adams  
Prepared by: Jeramy Patton  
Date Prepared: November 2, 2012

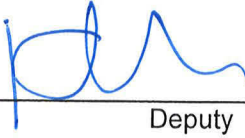
**LaVonne Griffin-Valade**  
Auditor of the City of Portland

By:

  
Deputy

Title

Authorize up to \$3.5 million in 10-year interfund capital loans from the City Fleet Operating, Facilities Services Operating, and Technology Services Funds to the General Fund for the reimbursement to the Water Bureau of expenditures for acquisition, construction, and renovation of certain assets, for potential expenses associated with the Willamette Harbor Superfund site, and to transfer management responsibility for certain assets between the Parks Bureau and the Water Bureau. (Resolution)

<p><b>INTRODUCED BY</b> Commissioner/Auditor: <b>Mayor Adams</b></p>	<p>CLERK USE: DATE FILED <u>NOV 02 2012</u></p>
<p><b>COMMISSIONER APPROVAL</b></p> <p>Mayor—Finance and Administration - <i>Adams</i></p> <p>Position 1/Utilities - Fritz</p> <p>Position 2/Works - Fish</p> <p>Position 3/Affairs - Saltzman</p> <p>Position 4/Safety - Leonard</p>	<p style="text-align: center;">LaVonne Griffin-Valade Auditor of the City of Portland</p> <p>By:  Deputy</p>
<p><b>BUREAU APPROVAL</b></p> <p>Bureau: OMF/Financial Services CAO: Jack D. Graham Bureau Head: Rich Goward, Jr.</p>	<p><b>ACTION TAKEN:</b></p>
<p>Prepared by: Jeramy Patton Date Prepared: 11/2/12</p>	
<p><b>Financial Impact &amp; Public Involvement Statement</b></p> <p>Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/></p>	
<p><b>Portland Policy Document</b> If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p>	
<p>Council Meeting Date November 7, 2012</p>	
<p>City Attorney Approval</p>	

**AGENDA**

**TIME CERTAIN**

Start time: \_\_\_\_\_

**Total amount of time needed:** \_\_\_\_\_  
(for presentation, testimony and discussion)

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**CONSENT**

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**REGULAR**

**Total amount of time needed:** 10 min  
(for presentation, testimony and discussion)

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:		
		YEAS	NAYS
1. Fritz	1. Fritz	✓	
2. Fish	2. Fish	✓	
3. Saltzman	3. Saltzman	✓	
4. Leonard	4. Leonard	✓	
Adams	Adams	✓	