**File #:** RS2023-2158, **Version:** 1

A resolution authorizing the issuance of not to exceed one hundred and sixty-three million ($163,000,000) in aggregate principal amount of interfund tax anticipation notes of the Metropolitan Government of Nashville and Davidson County, Tennessee.

WHEREAS, by Sections 9-21-101 et seq., Tennessee Code Annotated, local governments in Tennessee are authorized through their respective governing bodies to issue and sell interfund tax anticipation notes of said governments for the purpose of meeting appropriations made for Fiscal Year 2024 in anticipation of the collection of taxes and revenues; and,

WHEREAS, the Metropolitan County Council of The Metropolitan Government of Nashville and Davidson County, Tennessee, has heretofore determined that it is necessary and advisable to issue $163,000,000 in aggregate principal amount of interfund tax anticipation notes in one or more series for the purpose of meeting appropriations made for Fiscal Year 2024 from its General Services District Debt Service Fund (“GSD Debt Fund”), Schools Debt Service Fund (“Schools Debt Fund”), and Urban Services District Debt Service Fund (“USD Debt Fund”) (collectively the “Tax Funds”); and,

WHEREAS, it is the intention of the Metropolitan County Council to adopt this resolution for the purpose of authorizing $163,000,000 in aggregate principal amount of said notes, providing for the issuance, sale and payment of said notes, establishing the terms thereof and the disposition of proceeds therefrom.

NOW, THEREFORE, BE IT RESOLVED BY THE METROPOLITAN COUNTY COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY, TENNESSEE AS FOLLOWS:

Section 1. Authority. The notes authorized by this resolution will be issued pursuant to Tennessee Code Annotated Sections 9-21-101 et seq., and other applicable provisions of law.

Section 2. Definitions. The following terms shall have the following meanings in this resolution unless the text expressly or by necessary implication requires otherwise:

(a) “Code" means the Internal Revenue Code of 1986, as amended;

(b) "Governing Body" means the Metropolitan County Council of the Metropolitan Government;

(c) “Lending Funds” means funds of the Metropolitan Government designated as any of the following: Water & Sewerage Services Fund, General Fund Reserve Fund, Solid Waste Operations Fund, and Stormwater Operations Fund;

(d) "Metropolitan Government" means The Metropolitan Government of Nashville and Davidson County (Tennessee);

(e) "Notes" means collectively the Interfund Tax Anticipation Notes, Series 2023-A, Series 2023-B, and Series 2023-C of the Metropolitan Government, authorized to be issued by this resolution;

(f) "Registration Agent" means the Finance Director of the Metropolitan Government or such other person or entity as may be appointed by the Metropolitan Mayor to act as registration and paying agent for the Notes;

(g) "Series A Notes" means the not to exceed $125,000,000 Interfund Tax Anticipation Notes, Series 2023-A of the Metropolitan Government’s GSD Debt Fund, authorized to be issued by this resolution;

(h) "Series B Notes" means the not to exceed $30,000,000 Interfund Tax Anticipation Notes, Series 2023-B of the Metropolitan Government’s Schools Debt Fund, authorized to be issued by this resolution; and

(i) "Series C Notes" means the not to exceed $8,000,000 Interfund Tax Anticipation Notes, Series 2023 -C of the Metropolitan Government’s USD Debt Fund, authorized to be issued by this resolution.

Section 3. Authorization and Terms of the Notes. For the purpose of providing funds to meet appropriations in the Fiscal Year 2024 Metropolitan Government's Tax Funds and to pay costs incident to the issuance and sale of the Notes, if any, as more fully set forth herein, there are hereby authorized to be issued interfund tax anticipation notes of the Metropolitan Government, in one or more series, in the aggregate principal amount of not to exceed $163,000,000. The Notes shall be issued without coupons, shall be designated as provided in Section 2(g)-(i), respectively, and shall be dated the date of their issuance. The Notes shall bear interest at a rate or rates not to exceed the maximum rate permitted by applicable law, payable at maturity, which shall be not later June 30, 2024. Subject to Section 7 hereto, the Notes may be prepaid at any time. In no event shall the principal amount of the Notes and any other tax anticipation notes payable from the Tax Funds exceed 60% of the appropriations to be made from the Tax Funds in the fiscal year in which the Notes are issued.

The Notes shall be payable as to principal, premium, if any, and interest in lawful money of the United States of America at the offices of the Registration Agent. The Registration Agent shall make all interest payments with respect to the Notes on each interest payment date directly to the owners of the Notes, and all such payments shall discharge the obligations of the Metropolitan Government in respect of such Notes to the extent of the payments so made. Payment of principal of the Notes shall be made upon presentation and

surrender of such Notes to the Registration Agent as the same shall become due and payable.

The Notes shall be signed by the Metropolitan Mayor and attested to by the Metropolitan Clerk by their respective signatures.

The Registration Agent is hereby authorized to authenticate and deliver the Notes in the name of the applicable Lending Fund upon receipt by the Metropolitan Government of the proceeds of the sale thereof and to authenticate and deliver Notes in exchange for Notes of the same principal amount delivered for transfer upon receipt of the Note(s) to be transferred in proper form with proper documentation as hereinabove described. The Notes shall not be valid for any purpose unless authenticated by the Registration Agent by the manual signature of an officer thereof on the certificate set forth herein on the Note form.

Section 4. Source of Payment. The Notes shall be payable from the receipt of taxes and revenues in the respective Tax Funds during the current fiscal year. If the Metropolitan Government overestimates the amount of taxes and revenue collected for the fiscal year in which the Notes are issued and it becomes impossible to retire the Notes and all renewal notes prior to the close of such fiscal year, then the Metropolitan Government shall apply to the Comptroller of Treasury within ten (10) days prior to the close of such fiscal year for permission to issue funding bonds to cover the unpaid Notes in the manner provided by Title 9, Chapter 11 of Tennessee Code Annotated or as otherwise provided for in a manner approved by the Comptroller of Treasury.

Section 5. Form of Notes. The Notes shall be in substantially the following form, the omissions to be appropriately completed when the Notes are prepared and delivered:

(Form of Face of Note)

UNITED STATES OF AMERICA

STATE OF TENNESSEE

THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY

INTERFUND TAX ANTICIPATION NOTE, SERIES 2023[___]

Interest Rate: Maturity Date: Date of Note:

Registered Owner: [Lending Fund]

Principal Amount:



powered by Legistar™

The Metropolitan County Council of The Metropolitan Government of Nashville and Davidson County (the “Metropolitan Government”), does hereby acknowledge itself indebted and for value received hereby promises to pay from the [_____] Fund to the registered owner hereof, on the Maturity Date specified above (unless this Note shall have been duly called for prior redemption and payment of the redemption price shall have been duly made or provided for), the Principal Amount (specified above), together with interest at the rate specified above on _____, 20__, by check, draft, warrant or interfund transfer. Both principal of and interest on this Note are payable at the office of the Finance Director (the “Registration Agent”) of the Metropolitan Government or a successor Registration Agent duly appointed by the Metropolitan Mayor of the Metropolitan Government.

This Note is one of a total authorized issue aggregating $163,000,000 and issued by the Metropolitan Government for the purpose of meeting appropriations made for the Metropolitan Government's current fiscal year from its [_____] Fund, under and in full compliance with the constitution and statutes of the State of Tennessee, including Sections 9-21-101 et seq., Tennessee Code Annotated, and pursuant to a resolution duly adopted by the Metropolitan County Council of the Metropolitan Government on the _____ day of _____, 2023 (the "Resolution").

This Note is payable from the receipt of taxes and revenues in the [_____] Fund during the current fiscal year. For a more complete statement of the general covenants and provisions pursuant to which this Note is issued, reference is hereby made to said Resolution.

This Note and the income therefrom are exempt from all present state, county and municipal taxes in Tennessee except (a) Tennessee excise taxes on interest on the Note during the period the Note is held or beneficially owned by a corporation, bank, savings and loan association or any other business entity described in Section 67-4-806, Tennessee Code Annotated and (b) Tennessee franchise taxes by reason of the inclusion of the book value of the Note in the Tennessee franchise tax base of any corporation, bank, savings and loan association or other business entity described in Section 67-4-903, Tennessee Code Annotated.

It is hereby certified, recited, and declared that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this Note exist, have happened and have been performed in due time, form and manner as required by law, and that the amount of this Note, together with all other indebtedness of the Metropolitan Government, does not exceed any limitation prescribed by the constitution and statutes of the State of Tennessee.

IN WITNESS WHEREOF, the Metropolitan Government has caused this Note to be signed by its Metropolitan Mayor and attested by its Metropolitan Clerk as of the date hereinabove set forth.

THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY

By:

Metropolitan Mayor

ATTESTED:

Metropolitan Clerk

APPROVED AS TO FORM
AND LEGALITY:

_____

Director of Law

Transferable and payable at the
office of: [Metropolitan Government Finance Director]
Nashville, Tennessee

Date of Registration: _____

This Note is one of the issue of Notes issued pursuant to the Resolution hereinabove described.

[Metropolitan Government Finance Director],
Registration Agent

By: _____

Section 6. Remedies. The holder(s) of the Notes shall have all remedies provided by law in the event of a default under the Notes, including all remedies specified in Section 9-21-407 of the Tennessee Code Annotated, as amended. Without limiting the foregoing, the holder(s) of the Notes may by mandamus require the Metropolitan Government to assess, levy and collect taxes sufficient to provide for the payment of the Notes.

Section 7. Sale of Notes. The Metropolitan Mayor is hereby authorized to sell the Notes (including all series authorized hereunder) solely on an interfund basis and issue said Notes to one or more of the Lending Funds in an aggregate principal amount not to exceed $163,000,000.

The Metropolitan Mayor is authorized to change the dated date of the Notes, to sell fewer than all the Notes authorized herein, to change the designation of the Notes, and to approve the interest payment rates (as authorized herein) and dates and maturity date therefor. If any of the changes described above are made, the Note form set forth in Section 5 hereof shall be adjusted accordingly to reflect any changes made pursuant to this Section. The Metropolitan Mayor and Metropolitan Clerk, or either of them, are authorized to cause the Notes to be authenticated and delivered by the Registration Agent to the applicable Lending Fund and to execute, publish, and deliver all certificates, documents and supplemental agreements as they shall deem necessary in connection with the sale and delivery of the Notes. In no event shall any Notes be sold hereunder without first obtaining the approval of the State Director of Local Finance.

Section 8. Disposition of Note Proceeds. The proceeds of the sale of the Notes shall be paid to the Metropolitan Government and deposited and invested as required by applicable law.

Section 9. Resolution a Contract. The provisions of this resolution shall constitute the contractual obligation of the Metropolitan Government.

Section 10. Severability. If any section, paragraph or provision of this resolution shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this resolution.

Section 11. Repeal of Conflicting Resolutions and Effective Date. All other resolutions and orders, or parts thereof, in conflict with the provisions of this resolution, are, to the extent of such conflict, hereby repealed and this resolution shall be in immediate effect from and after its adoption.

Section 12. Effective Date. This Resolution shall take effect from and after its adoption, the welfare of the Metropolitan Government requiring it.

Analysis

This resolution authorizes the issuance of up to $163,000,000 in interfund tax anticipation notes ("TANs") by the Metropolitan Government. These TANs would be issued pursuant to Tennessee Code Annotated § 9-21-101, et seq. for the purpose of meeting appropriations made for Fiscal Year 2023 in anticipation of the collection of taxes and revenues.

Money within Metro's various distinct funds is commingled and Metro has historically addressed temporary cash flow deficits by borrowing funds from the pooled cash account. This has the technical effect of one fund using money from another fund to pay for expenditures (until property tax receipts that fund each account are sufficient for the intended purpose).

In 2018, the Comptroller of the State of Tennessee advised that these transfers should be formalized by issuing interfund tax anticipation notes, as permitted under state law with the prior approval of the Comptroller's office. The Council authorized TANs for FY20, FY21, FY22, and FY23 in compliance with the Comptroller's request. The pending resolution would continue this practice in order to formalize Metro's regular practice of interfund borrowing.

The resolution identifies the following as "lending funds" for purposes of the TANs: Water & Sewerage Services Fund, General Fund Reserve Fund, Solid Waste Operations Fund, and Stormwater Operations Fund.

The Mayor would have the authority to approve the interest rate and maturity date for the notes. Approval of the state director of local finance in the comptroller's office would be required before such a sale could take place. These notes must be repaid not later than June 30, 2024.