

BEFORE THE METRO COUNCIL

AN ORDINANCE CONFIRMING AN )  
AMENDMENT TO AND THE ANNUAL )  
READOPTON OF METRO CODE 2.06 )  
(INVESTMENT POLICY); AND DECLARING )  
AN EMERGENCY

ORDINANCE NO. 01-932  
  
Introduced by Mike Burton,  
Executive Officer

WHEREAS, The Metro Code, Section 2.06, contains the investment policy which applies to all cash-related assets held directly by Metro; and

WHEREAS, The Investment Advisory Board reviews and approves for adherence to Investment Policy the quarterly Investment Report for submission to Metro Council; and

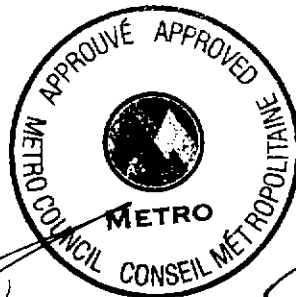
WHEREAS, the Investment Advisory Board, and the Investment Manager propose amending Section 2.06.090 – Safekeeping and Collateralization, and

WHEREAS, the Oregon Short Term Fund Board has approved the amendment; now, therefore,

THE METRO COUNCIL HEREBY ORDAINS:

1. That Metro Code Chapter 2.06 is readopted as written in Exhibit A.
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 Revised Statutes, an emergency is declared to exist, and this Ordinance takes effect upon passage.

READOPTED by the Metro Council this 11<sup>th</sup> day of DECEMBER, 2001.



*[Handwritten Signature]*  
 \_\_\_\_\_  
 David Bragdon, Presiding Officer

ATTEST:  
*[Handwritten Signature]*  
 \_\_\_\_\_  
 Recording Secretary

Approved as to Form:  
*[Handwritten Signature]*  
 \_\_\_\_\_  
 Daniel B. Cooper, General Counsel

# EXHIBIT A TO ORDINANCE NO. 01-932

## CHAPTER 2.06

### INVESTMENT POLICY

SECTIONS	TITLE
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2.06.060	Competitive Selection of Investment Instruments
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#### 2.06.010 Scope

These investment policies apply to all cash-related assets included within the scope of Metro's audited financial statements and held directly by Metro. Other than bond proceeds or other segregated revenues, the total of funds pooled for investments ranges from \$60 million to \$100 million with an average of \$80 million. Funds held and invested by trustees or fiscal agents are excluded from these policies; however, such funds are subject to the regulations established by the State of Oregon.

Funds of Metro will be invested in compliance with the provisions of ORS 294.035 through 294.048; ORS 294.125 through 294.155; ORS 294.810; and other applicable statutes. Investments will be in accordance with these policies and written administrative procedures. Investment of any tax exempt borrowing proceeds and of

any debt service funds will comply with the 1986 Tax Reform Act provisions and any subsequent amendments thereto.

2.06.020 Objectives

(a) Safety. Investments shall be undertaken in a manner that seeks to ensure the preservation of principal in the overall portfolio and security of funds and investments. For securities not backed by the full faith and credit of the federal government, diversification is required in order that potential losses on individual securities would not exceed the income generated from the remainder of the portfolio.

(b) Liquidity. The investment officer shall assure that funds are constantly available to meet immediate payment requirements including payroll, accounts payable and debt service.

(c) Yield. The investment portfolio shall be designed with the objective of regularly exceeding the average return on 90-day U.S. Treasury Bills. The investment program shall seek to augment returns above this level, consistent with risk limitations described in this policy and prudent investment principles.

Due to Metro's fiduciary responsibility, safety of capital and availability of funds to meet payment requirements are the overriding objectives of the investment program. Investment yield targets are secondary.

(d) Legality. Funds will be deposited and invested in accordance with statutes, ordinances and policies governing Metro.

2.06.030 Responsibility

(a) Investment Officer. The executive officer is the investment officer of the district. The authority for investing Metro funds is vested with the investment officer, who, in turn, designates the investment manager to manage the day-to-day operations of Metro's investment portfolio, place purchase orders and sell orders with dealers and financial institutions, and prepare reports as required.

(b) Investment Advisory Board (IAB). There shall be an investment advisory board composed of five members.

(1) Terms of Service. The term of service for citizens appointed to the IAB shall be three calendar years. The term of appointment shall be staggered so that not more than two members' terms expire in any calendar year.

- (2) Appointment. The investment officer shall recommend to the council for confirmation, the names of persons for appointment to the IAB.
- (3) Duties. The IAB shall meet at least quarterly. The IAB will serve as a forum for discussion and act in an advisory capacity for investment strategies, banking relationships, the legality and probity of investment activities and the establishment of written procedures for the investment operations.

(c) Quarterly Reports. At each quarterly meeting, a report reflecting the status of the portfolio will be submitted for review and comment by at least 3 members of the IAB. Discussion and comment on the report will be noted in minutes of the meeting. If concurrence is not obtained, notification will be given to the investment officer including comments by the IAB.

2.06.040 Prudence

The standard of prudence to be applied by the investment officer shall be the "prudent investor" rule: "Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived." The prudent investor rule shall be applied in the context of managing the overall portfolio.

2.06.050 Investment Diversification

(Definitions of terms and applicable authorizing statutes are listed in the "Summary of Investments Available to Municipalities" provided by the state treasurer.) The investment officer will diversify the portfolio to avoid incurring unreasonable risks inherent in over investing in specific instruments, individual financial institutions, or maturities.

(a) Diversification by Investment

	Percent of Portfolio (Maximum)
(1) U.S. Treasury Bills, Notes, Bonds, Strips and/or State	100%

and Local Government Series  
(SLGS)

- |     |  |      |
|-----|--|------|
| (2) | Securities of U.S. Government Agencies<br>and U.S. Government Sponsored Enterprises  | 100% |
| (3) | Certificates of Deposit (CD)<br>Commercial Banks in Oregon insured<br>by FDIC  | 100% |
| (4) | Repurchase Agreements (Repo's)<br>Maximum 90-day maturity  | 50%  |
| (5) | Banker's Acceptances (BA)  | 100% |
| (6) | Commercial Paper (CP)<br>Issued by a financial institution, commercial, industrial<br>or utility business enterprise.  | 35%  |
|     | For a corporation headquartered in Oregon; A-1 and<br>P-1 only, maximum 90-day maturity; A-2 and P-2, A-<br>1/P-2, or A-2/P-1 only, maximum 60-day maturity. |      |
|     | For a corporation headquartered outside Oregon; A-1<br>and P-1 only; maximum 90-day maturity   |      |
| (7) | State of Oregon and Local Government<br>Securities with A ratings or better  | 25%  |
| (8) | State of Oregon Investment Pool  | 100% |
| (9) | Market Interest Accounts and Checking<br>Accounts Minimum necessary for daily<br>cash management efficiency  |      |

(b) Diversification by Financial Institution

- (1) Qualified Institutions. The investment officer shall maintain a listing of financial institutions and securities dealers recommended by the IAB. Any financial institution and/or securities dealer is eligible to make an application to the investment officer and upon due consideration and approval hold available funds.

A listing of the eligible institutions shall be held by the investment officer and provided any fiduciary agent or trustee.

(2) Diversification Requirements. The combination of investments in Certificates of Deposit and Banker's Acceptances as outlined individually at 2.06.050(b)(2)(A) and (C) invested with any one institution shall not exceed 25 percent of the total available funds or 15 percent of the equity of the institution.

(A) Certificates of Deposit - Commercial Banks

No more than the lesser of 25 percent of the total available funds or 15 percent of the equity of the financial institution may be invested with any one institution.

(B) Repurchase Agreements

May be purchased from any qualified institution provided the master repurchase agreement is effective and the safekeeping requirements are met. All repurchase agreements will be fully collateralized by general obligations of the U.S. Government, the agencies and instrumentalities of the United States or enterprises sponsored by the United States government, marked to market.

The investment officer shall not enter into any reverse repurchase agreements.

(C) Banker's Acceptances

Must be guaranteed by, and carried on the books of, a qualified financial institution whose short-term letter of credit rating is rated in the highest category by one or more nationally recognized statistical rating organizations.

Qualified institution means:

(i) A financial institution that is located and licensed to do banking business in the State of Oregon; or

- (ii) A financial institution located in the States of California, Idaho, or Washington that is wholly owned by a bank holding company that owns a financial institution that is located and licensed to do banking business in the State of Oregon.

No more than the lesser of 25 percent of the total available funds or 15 percent of the equity of the financial institution may be invested with any one institution.

- (D) Commercial Paper

No more than 5 percent of the total portfolio with any one corporate entity.

- (E) State and Local Government Securities

No more than 15 percent of the total portfolio in any one local entity.

- (F) State of Oregon Investment Pool

Not to exceed the maximum amount established in accordance with ORS 294.810, with the exception of pass-through funds (in and out within 10 days).

- (G) U.S. Government Agencies

Securities of U.S. Government Agencies and U.S. Government Sponsored Enterprises as defined under ORS 294.035 and/or 294.040. No more than 40 percent of the total portfolio in any one agency.

- (H) U.S. Government Treasuries

No limitations

(c) Diversification by Maturity. Only investments which can be held to maturity shall be purchased. Investments shall not be planned or made predicated upon selling the security prior to maturity. This restriction does not prohibit the use of repurchase agreements under ORS 294.135(2). This policy shall not preclude the sale

of securities prior to their maturity in order to improve the quality, net yield, or maturity characteristic of the portfolio.

Maturity limitations shall depend upon whether the funds being invested are considered short-term or long-term funds. All funds shall be considered short-term except those reserved for capital projects (e.g., bond sale proceeds).

(1) Short-Term Funds

- (A) Investment maturities for operating funds and bond reserves shall be scheduled to meet projected cash flow needs. Funds considered short-term will be invested to coincide with projected cash needs or with the following serial maturity:
  - 25% minimum to mature under three months
  - 75% minimum to mature under 18 months
  - 100% minimum to mature under five years
- (B) Investments may not exceed five years. Investment maturities beyond 18 months may be made when supported by cash flow projections which reasonably demonstrate that liquidity requirements will be met. Maturities beyond 18 months will be limited to direct U.S. Treasury obligations.

(2) Long-Term Funds

- (A) Maturity scheduling shall be timed according to anticipated need. ORS 294.135 permits investment beyond 18 months for any bond proceeds or funds accumulated for any purpose which the district is permitted by state law to accumulate and hold funds for a period exceeding one year. The maturities should be made to coincide as nearly as practicable with the expected use of the funds.
- (B) Investment of capital project funds shall be timed to meet projected contractor payments. The drawdown schedule used to guide the investment of the funds shall evidence the approval of the investment officer and review of the Chief Financial Officer.

(d) Total Prohibitions. The investment officer may not make a commitment to invest funds or sell securities more than 14 business days prior to the anticipated date

ord 01-932 exhibit a

2.06-7 (Readopted April 9, 1998)  
(Amended December 10, 1998)  
(Readopted April 15, 1999)  
(Readopted April 27, 2000)



of settlement of the purchase or sale transaction, and may not agree to invest funds or sell securities for a fee other than interest. Purchase of standby or forward commitments of any sort are specifically prohibited.

(e) Adherence to Investment Diversification. Diversification requirements must be met on the day an investment transaction is executed. If due to unanticipated cash needs, investment maturities or marking the portfolio to market, the investment in any security type, financial issuer or maturity spectrum later exceeds the limitations in the policy, the Investment Officer is responsible for bringing the investment portfolio back into compliance as soon as is practical.

#### 2.06.060 Competitive Selection of Investment Instruments

Before the investment officer invests any surplus funds, a competitive offering solicitation shall be conducted orally. Offerings will be requested from financial institutions for various options with regards to term and instrument. The investment officer will accept the offering which provides the highest rate of return within the maturity required and within the prudent investor rule. Records will be kept of offerings and the basis for making the investment decision.

#### 2.06.065 Monitoring the Portfolio

The investment manager will routinely monitor the contents of the portfolio comparing the holdings to the markets, relative values of competing instruments, changes in credit quality, and benchmarks. If there are advantageous transactions, the portfolio may be adjusted accordingly.

#### 2.06.070 Qualifying Institutions

The investment officer shall maintain a listing of all authorized dealers and financial institutions which are approved for investment purposes. Written procedures and criteria for selection of financial institutions will be established by the investment officer. Financial institutions must have a branch in Oregon. Any firm is eligible to apply to provide investment services to Metro and will be added to the list if the selection criteria are met. Additions or deletions to the list will be made by the investment officer and reviewed by the IAB. At the request of the investment officer, the firms performing investment services for Metro shall provide their most recent financial statements or Consolidated Report of Condition (call report) for review. Further, there should be in place, proof as to all the necessary credentials and licenses held by employees of the broker/dealers who will have contact with Metro as specified by but not necessarily limited to the National Association of Securities Dealers (NASD), Securities and Exchange Commission (SEC), etc. At minimum, the investment officer and the IAB

shall conduct an annual evaluation of each firm's qualifications to determine whether it should be on the authorized list.

Securities dealers not affiliated with a Qualified Financial Institution, as defined in ORS 294.035, will be required to have headquarters located in the State of Oregon, Washington or Idaho and, if not headquartered in the State of Oregon, to have an office located in Oregon. Notwithstanding the above, securities dealers who are classified as primary dealers with the New York Federal Reserve Bank are also eligible.

#### 2.06.090 Safekeeping and Collateralization

All securities purchased pursuant to this investment policy will be delivered by either book entry or physical delivery to a third party for safekeeping by a bank designated as custodian. Purchase and sale of all securities will be on a payment versus delivery basis. The trust department of the bank designated as custodian will be considered to be a third party for the purposes of safekeeping of securities purchased from that bank. The custodian shall issue a safekeeping receipt to Metro listing the specific instrument, rate, maturity and other pertinent information.

Delivery versus payment will also be required for all repurchase transactions and with the collateral priced and limited in maturity in compliance with ORS 294.035(11).

Notwithstanding the preceding, an exception to the delivery versus payment policy is made when purchasing State and Local Government Series Securities (SLGS) from the United State Treasury's Bureau of Public Debt to satisfy arbitrage yield restriction requirements of the Internal Revenue Code for tax-exempt bond issues.

Deposit-type securities (i.e., Certificates of Deposit) shall be collateralized through the state collateral pool as required by ORS 295.015 and ORS 295.018 for any amount exceeding FDIC coverage, recognizing that ORS 295.015 requires only 25 percent collateralization and ORS 295.018 requires 110 percent collateralization when the institution is notified by the state treasurer.

#### 2.06.100 Indemnity Clause

(a) Metro shall indemnify the investment officer, chief financial officer, investment manager, staff and the IAB members from personal liability for losses that might occur pursuant to administering this investment policy.

(b) The investment officer, acting in accordance with written procedures and exercising due diligence, shall not be held personally responsible for a specific

security's credit risk or market price changes, provided that these deviations are reported to the council as soon as practicable.

#### 2.06.110 Controls

The investment officer shall maintain a system of written internal controls, which shall be reviewed annually by the IAB and the independent auditor. The controls shall be designed to prevent loss of public funds due to fraud, error, misrepresentation or imprudent actions.

Metro's independent auditor at least annually shall audit investments according to generally accepted auditing standards and this ordinance.

#### 2.06.120 Accounting Method

Metro shall comply with all required legal provisions and Generally Accepted Accounting Principles (GAAP). The accounting principles are those contained in the pronouncements of authoritative bodies, including but not necessarily limited to, the American Institute of Certified Public Accountants (AICPA); the Financial Accounting Standards Board (FASB); and the Government Accounting Standards Board (GASB).

#### 2.06.130 Reporting Requirements

(a) A transaction report shall be prepared by the investment manager not later than one business day after the transaction, unless a trustee, operating under a trust agreement, has executed the transaction. The trustee agreement shall provide for a report of transactions to be submitted by the trustee on a monthly basis.

(b) Quarterly reports shall be prepared for each regular meeting of the IAB to present historical investment information for the past 12-month period. Copies shall be provided to the executive officer and the Metro council.

#### 2.06.140 Performance Evaluation

The overall performance of Metro's investment program is evaluated quarterly by the IAB using the objectives outlined in this policy. The quarterly report which confirms adherence to this policy shall be provided to the Metro council as soon as practicable.

The performance of Metro's portfolio shall be measured by comparing the average yield of the portfolio at month-end against the performance of the 90-day U.S. Treasury Bill issue maturing closest to 90 days from month-end and the Local Government Investment Pool's monthly average yield.

2.06.150 Policy Adoption

This investment policy must be reviewed by the IAB and the Oregon Short-Term Fund Board prior to adoption by the Metro council. Adoption of this policy supersedes any other previous council action or policy regarding Metro's investment management practices.

2.06.160 Policy Readoption

This policy shall be subject to review and readoption annually by the Metro council in accordance with ORS 294.135.

## STAFF REPORT

### **AN ORDINANCE CONFIRMING AN AMENDMENT TO AND THE ANNUAL READOPTION OF METRO CODE 2.06 (INVESTMENT POLICY); AND DECLARING AN EMERGENCY**

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Date: November 2, 2001

Presented by: Brian Williams

#### **FACTUAL BACKGROUND AND ANALYSIS**

Metro Code, Chapter 2.06, contains the investment policy, which applies to all cash-related assets held directly by Metro. The major objectives of the policy are the safety of capital, the availability (liquidity) of funds, and yield on investment. Safety and availability are the overriding objectives of the investment program. Investment yield targets are secondary.

Section 2.06.160 provides that the policy is subject to annual review and readoption in accordance with Oregon Revised Statute (ORS) 294.135. The last readoption by Metro Council took place April 27, 2000.

Metro's investment portfolio, which is subject to the referenced policy, is reviewed quarterly for adherence to policy by the Investment Advisory Board, a citizens oversight committee composed of investment professionals. Following their review and approval, the quarterly Investment Report is forwarded to Metro Council.

The Investment Manager and the Investment Advisory Board propose amending Section 2.06.090 – Safekeeping and Collateralization to accommodate purchasing State and Local Government Series Securities from the United States Treasury's Bureau of Public Debt. What follows is an explanation of the proposed amendment.

#### **Background:**

The Internal Revenue Code sets various investment yield limitation conditions for proceeds from tax-exempt debt issues. Federal legislation enacted in 1969 restricts state and local governments from earning arbitrage profits. Arbitrage is the price differential, or profit made, from investing inherently lower yielding tax-exempt debt proceeds in higher yielding taxable investments. A debt issuer must meet certain yield restriction conditions (known as Arbitrage Restriction Requirements) to avoid compromising the tax-exempt status of the debt.

To assist issuers of state and local government tax exempt securities in complying with the Arbitrage Restriction Requirements, the U.S. Treasury, through its Bureau of Public Debt, offers State and Local Government Series Securities (SLGS) for sale. These SLGS securities are issued in book-entry form, are non-marketable, and non-callable. The SLGS Deposit Securities purchased by Metro are issued with maturity periods fixed by Metro from thirty days, up to and including one year. The interest rate offered is the rate designated by Metro.

The Bureau of Public Debt from which SLGS are purchased does not settle its transactions on a Delivery versus Payment (DVP) basis. That is, Metro pays The Bureau of Public Debt prior to the delivery of the securities to Metro's safekeeping agent. Because the deliverer of the securities is also the issuer (the U S Government through the Bureau of Public Debt), the risk of non-delivery is slight because of the backing of the full faith and credit of the U.S. Government.

## STAFF REPORT

### CONSIDERATION OF ORDINANCE NO. 01-932 CONFIRMING AN AMENDMENT TO AND THE ANNUAL READOPTION OF METRO CODE 2.06 (INVESTMENT POLICY); AND DECLARING AN EMERGENCY

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#### Proposed addition:

Notwithstanding the proceeding, an exception to the delivery versus payment policy is made when purchasing State and Local Government Series Securities (SLGS) from the U.S. Treasury's Bureau of Public Debt to satisfy arbitrage restriction requirements of the Internal Revenue Code for tax-exempt debt issues.

The full Chapter 2.06, which includes the proposed amendment is attached to the ordinance as Exhibit A.

The Oregon Short Term Fund Board (ORS 294.885) must review changes to investment policy of municipalities before the policies are approved by the governing bodies of the municipalities. Exhibit B is the letter from the Oregon Short Term Fund Board evidencing its review of Metro's Investment Policy.

This ordinance has no impact on the budget.

Because this ordinance only affects Metro's internal investment policy, and because the proposed policy is substantially unchanged from the prior policy, an emergency is requested so that this newly adopted policy becomes effective immediately.

#### **EXECUTIVE OFFICER'S RECOMMENDATION**

The Executive Officer recommends readoption of Metro Code Chapter 2.06 by Ordinance No. 01-932.