

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING TITLE VII EXCISE) ORDINANCE NO. 02-976
TAXES, TITLE VIII FINANCING POWERS AND)
CHAPTER 2.06 INVESTMENT POLICY OF THE METRO)
CODE, TO CONFORM TO THE METRO CHARTER) Introduced by the Council
AMENDMENTS ADOPTED ON NOVEMBER 7, 2000, AND) Governmental Affairs Committee
DECLARING AN EMERGENCY

WHEREAS, on November 7, 2000, the electors of Metro approved Ballot Measure 26-10 amending the Metro Charter; and

WHEREAS, the Metro Charter Amendments, created the Office of Council President and abolished the Office of the Executive Officer; and

WHEREAS, the Metro Council amended Metro Code Chapter 2.01 to reflect the creation of the office of Metro Council President pursuant to Ordinance No. 02-954A on June 27, 2002; and

WHEREAS, the Metro Charter Amendments required the Metro Council to create the Office of the Chief Operating Officer; and

WHEREAS, the Metro Charter Amendments, added Metro Code Chapter 2.20 to create the office of Chief Operating Officer and to define the duties and responsibilities of the Chief Operating Officer, pursuant to Ordinance No. 02-942A on June 27, 2002; and

WHEREAS, the Metro Charter Amendments required the Council to create the Office of the Metro Attorney; and

WHEREAS, the Metro Council amended Chapter 2.08 of the Metro Code to create the office of the Metro Attorney and to define the duties and responsibilities of the Metro Attorney, pursuant to Ordinance No. 02-953A on June 27, 2002; and

WHEREAS, it is necessary to amend the following Chapters of Title VII Excise Taxes, Title VIII Financing Powers and Chapter 2.06 Investment Policy of the Metro Code to conform to the Metro Charter Amendments adopted on November 7, 2000:

Exhibit	Chapter	Title
A	7.01	Excise Taxes
B	8.01	Financing Powers
C	2.06	Investment Policy

WHEREAS, it is appropriate to combine former Title VII Excise Taxes, Title VIII Financing Powers and Chapter 2.06 Investment Policy into a new Title VII Finance of the Metro Code to conform to the Metro Charter Amendments adopted on November 7, 2000; and

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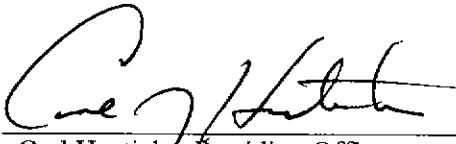
THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. The Metro Code Chapters are amended as provided for and are attached as follows:

Exhibit	Chapter	Title VII Finance
A	7.01	Excise Taxes
B	7.02	Financing Powers [former Title VIII Chapter 8.01]
C	7.03	Investment Policy [former Chapter 2.06]

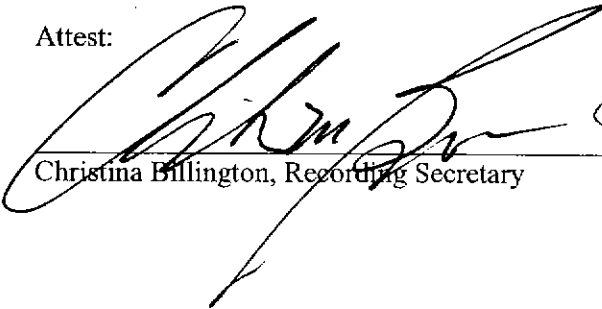
2. The Metro Charter Amendments to the Metro Code adopted by this ordinance shall take effect on January 6, 2003.

ADOPTED by the Metro Council this 21st day of November 2002.



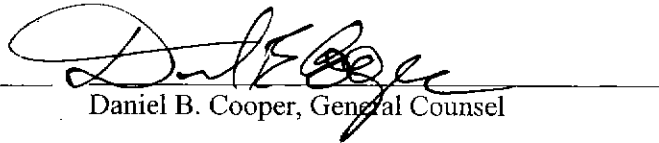
Carl Hostick, Presiding Officer

Attest:



Christina Billington, Recording Secretary

Approved as to Form:



Daniel B. Cooper, General Counsel

Exhibit A
Metro Charter 2003 Amendments to Metro Code

TITLE VII

EXCISE TAXES FINANCE

CHAPTERS	TITLE
7.01	Excise Taxes
7.02	Financing Powers (former Chapter 8.01)
7.03	Investment Policy (former Chapter 2.06)

CHAPTER 7.01

EXCISE TAXES

SECTIONS	TITLE
7.01.010	Definitions
7.01.020	Tax Imposed
7.01.022	Consumer Price Index Adjustment
7.01.023	Amount of Additional Excise Tax; Budgeting of Additional Revenue for Regional Parks and Greenspaces Programs
7.01.024	Repeal of Provisions Setting Amount of Additional Excise Tax and Budgeting of Revenue for Regional Parks and Greenspaces Programs
7.01.025	Collection of Tax by District
7.01.028	Budgeting of Excess Revenue
7.01.030	Collection of Tax by Operator; Rules for Collection
7.01.040	Operator's Duties
7.01.050	Exemptions
7.01.060	Registration of Operator; Form and Contents; Execution; Certification of Authority.
7.01.070	Due Date; Returns and Payments
7.01.080	Penalties and Finance Charges
7.01.090	Deficiency Determination; Fraud, Evasion, Operator Delay
7.01.100	Hearings, Contested Cases
7.01.110	Security for Collection of Tax
7.01.120	Refunds
7.01.130	Administration
7.01.150	Violations
7.01.160	Effective Date and Effect of Initiative Passage
7.01.170	Council Review of Ordinance Effect
7.01.180	Excise Tax Credit Program Review
7.01.190	Administrative Procedures for Excise Tax Credits

7.01.010 Definitions

For the purposes of this chapter unless the context requires otherwise the following terms shall have the meaning indicated:

- (a) "Accrual basis accounting" means revenues are recorded in the accounting period in which they are earned and become measurable whether received or not.
- (b) "Cash basis accounting" means revenues are recorded when cash is received.
- (c) "Cleanup Material Contaminated By Hazardous Substances" means solid waste resulting from the cleanup of release of hazardous substances into the environment, including petroleum contaminated soils and sandbags from containment of chemical spills provided that such substances are derived from nonrecurring environmental cleanup activity. Cleanup Material Contaminated By Hazardous Substances does not mean solid waste generated by manufacturing or industrial processes.

(d) “~~District~~Metro facility” means any facility, equipment, system, function, service or improvement owned, operated, franchised or provided by ~~the district~~Metro. ~~District~~Metro facility includes but is not limited to all services provided for compensation by employees, officers or agents of Metro, including but not limited to the Oregon Zoo, Metro ERC facilities, all solid waste system facilities, and any other facility, equipment, system, function, service or improvement owned, operated, franchised or provided by ~~the district~~Metro.

(e) “Inert” shall have the meaning assigned thereto in Metro Code Section 5.01.010.

(f) “Installment payments” means the payment of any amount that is less than the full payment owed either by any user to ~~the district~~Metro or to an operator or by an operator to ~~the district~~Metro.

(g) “Metro ERC facility” means any facility operated or managed by the Metropolitan Exposition-Recreation Commission.

(h) “Operator” means a person other than ~~the district~~Metro who receives compensation from any source arising out of the use of a ~~district~~Metro facility. Where the operator performs his/her functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this chapter and shall have the same duties and liabilities as his/her principal. Compliance with the provisions of this chapter by either the principal or managing agent shall be considered to be compliance by both.

(i) “Person” means any individual, firm, partnership, joint venture, association, governmental body, joint stock company, corporation, estate, trust, syndicate, or any other group or combination acting as a unit.

(j) “Payment” means the consideration charged, whether or not received by ~~the district~~Metro or an operator, for the use of a ~~district~~Metro facility, valued in money, goods, labor, credits, property or other consideration valued in money, without any deduction.

(k) “Processing Residual” shall have the meaning assigned thereto in Metro Code Section 5.02.015.

(l) “Facility Recovery Rate” shall have the meaning assigned thereto in Metro Code Section 5.02.015.

(m) “Regional Recovery Rate” shall have the meaning assigned thereto in ORS 459A.010(4)(a).

(n) “Solid waste system facility” means all facilities defined as such pursuant to Section 5.05.010 including but not limited to all designated facilities set forth in Section 5.05.030 and any non-system facility as defined in Section 5.05.010 that receives solid waste from within the Metro Area~~boundary~~ whether pursuant to an authorized non-system license or otherwise.

(o) “Source Separate” or “Source Separated” or “Source Separation” shall have the meaning assigned thereto in Metro Code Section 5.01.010.

(p) "Source-separated recyclable material" or "Source-separated recyclables" shall have the meaning assigned thereto in Metro Code Section 5.01.010.

(q) "Tax" means the tax imposed in the amount established in ~~sub~~Section 7.01.020, and includes both the tax payable by a user and the aggregate amount of taxes due from an operator during the period for which he/she is required to report and pay the tax.

(r) "Useful material" shall have the meaning assigned thereto in Metro Code Section 5.01.010.

(s) "User" means any person who pays compensation for the use of a ~~district~~Metro facility or receives a product or service from a ~~district~~Metro facility subject to the payment of compensation.

(Ordinance No. 90-333A, Sec. 2. Amended by Ordinance No. 92-464, Sec. 1; Ordinance No. 94-549B, Sec. 2; Ordinance No. 00-857B, Sec. 1.)

7.01.020 Tax Imposed

(a) For the privilege of the use of the facilities, equipment, systems, functions, services, or improvements owned, operated, certified, licensed, franchised, or provided by ~~the district~~Metro, each user except users of solid waste system facilities shall pay a tax of 7.5 percent of the payment charged by the operator or ~~the district~~Metro for such use unless a lower rate has been established as provided in subsection 7.01.020(b). The tax constitutes a debt owed by the user to ~~the district~~Metro which is extinguished only by payment of the tax directly to ~~the district~~Metro or by the operator to ~~the district~~Metro. The user shall pay the tax to ~~the district~~Metro or to an operator at the time payment for the use is made. The operator shall enter the tax on his/her records when payment is collected if the operator keeps his/her records on the cash basis of accounting and when earned if the operator keeps his/her records on the accrual basis of accounting. If installment payments are paid to an operator, a proportionate share of the tax shall be paid by the user to the operator with each installment.

(b) The Council may for any period commencing no sooner than July 1 of any year and ending on June 30 of the following year establish a tax rate lower than the rate of tax provided for in subsection 7.01.020(a) or in subsections 7.01.020(c)-(e) by so providing in an ordinance adopted by the ~~district~~Metro. If the Council so establishes a lower rate of tax, the ~~executive officer~~Chief Operating Officer shall immediately notify all operators of the new tax rate. Upon the end of the fiscal year the rate of tax shall revert to the maximum rate established in subsection 7.01.020(a) unchanged for the next year unless further action to establish a lower rate is adopted by the Council as provided for herein.

(c) For the privilege of the use of the solid waste system facilities, equipment, systems, functions, services, or improvements, owned, operated, certified, licensed, franchised, or provided by ~~the district~~Metro, each user of solid waste system facilities and each solid waste facility licensed or franchised under Chapter 5.01 of this Code to deliver putrescible waste directly to ~~the district~~Metro's contractor for disposal of putrescible waste shall pay a tax in the amount calculated under subsection (e)(1) for each ton of solid waste exclusive of compostable organic waste accepted at Metro Central or Metro South stations and source separated recyclable materials accepted at the solid waste system facilities. In addition, each user of solid waste system facilities and each solid waste facility licensed or franchised under Chapter 5.01 of this Code to deliver putrescible waste directly to ~~the district~~Metro's

contractor for disposal of putrescible waste shall also pay the additional tax in the amount set forth under Section 7.01.023 for each ton of solid waste exclusive of compostable organic waste accepted at Metro Central or Metro South stations and source separated recyclable materials accepted at the solid waste system facilities. The tax constitutes a debt owed by the user to ~~the district~~Metro which is extinguished only by payment of the tax directly to ~~the district~~Metro or by the operator to ~~the district~~Metro. The user shall pay the tax to ~~the district~~Metro or to an operator at the time payment for the use is made. The operator shall enter the tax on his/her records when payment is collected if the operator keeps his/her records on the cash basis of accounting and when earned if the operator keeps his/her records on the accrual basis of accounting. If installment payments are paid to an operator, a proportionate share of the tax shall be paid by the user to the operator with each installment.

(d) For the Metro fiscal year beginning July 1, 2002, the tax rate imposed and calculated under this section shall be sufficient to generate net excise tax revenue of \$6,050,000 after allowing for any tax credit or tax rebate for which provision is made in this chapter. For each Metro fiscal year thereafter the tax rate imposed and calculated under this section shall be sufficient to generate net excise tax revenue equal to the net excise tax revenue authorization in the previous fiscal year as adjusted in accordance with Section 7.01.022.

- (e) (1) The excise tax rate for each ton of solid waste, exclusive of (i) source separate recyclable materials accepted at the solid waste system facilities, (ii) inert materials, (iii) Cleanup Materials Contaminated by Hazardous Substances, and (iv) compostable organic waste delivered to Metro Central or Metro South stations, shall be the amount that results from dividing the net excise tax revenue amount set forth in sub-section (d) by the amount of solid waste tonnage which the ~~Executive Officer~~Chief Operating Officer reports to the Council under sub-section (f)(2). Subject to the provisions of subsection 7.01.020(b), the rate so determined shall be ~~the district~~Metro's excise tax rate on solid waste during the subsequent Metro fiscal year.
- (2) The excise tax rate for each ton of solid waste constituting Cleanup Materials Contaminated by Hazardous Substances shall be \$1.00.

(f) By December 1, 2000 and by March 1st of each year thereafter, the ~~Executive Officer~~Chief Operating Officer shall provide a written report to the Metro Council stating the following:

- (1) For the twelve ~~(12)~~- month period ending the previous December 31; the amount of solid wastes, exclusive of inert materials, delivered for disposal to any Solid Waste System Facility that is not exempt pursuant to Section 7.01.050(a) of this chapter, and
- (2) The amount of such solid wastes that would have been delivered for disposal to any such non-exempt Solid Waste System Facility if the Regional Recovery Rates corresponding to each calendar year set forth on the following schedule had been achieved:

Year	Regional Recovery Rate
1999	43%
2000	46%
2001	48%
2002	50%
2003	52%
2004	54%
2005	56%

The result of such calculation by the ~~Executive Officer~~ Chief Operating Officer shall be used to determine the excise tax rate under sub-section (e)(1).

(g) (1) A solid waste facility which is certified, licensed or franchised by Metro pursuant to Metro Code Chapter 5.01 shall be allowed a credit against the Excise Tax otherwise due under Section 7.01.020(e)(1) for disposal of Processing Residuals from such facility. The Facility Recovery Rate shall be calculated for each six (6) - month period before the month in which the credit is claimed. Such credit shall be dependent upon the Facility Recovery Rate achieved by such facility and shall be equal to the amount resulting from reducing the Excise Tax due by the amount corresponding with the Facility Recovery Rates provided on the following table:

Excise Tax Credit Schedule		
Facility Recovery Rate		Excise Tax
From Above	Up To & Including	Credit of no more than
0%	30%	0.00
30%	35%	1.92
35%	40%	2.75
40%	100%	3.51

(2) During any Fiscal Year, the total aggregate amount of excise tax credits granted under the provisions of this subsection shall not exceed the dollar amount budgeted for such purpose without the prior review and authorization of the Metro Council.

(Ordinance No. 90-333A, Section. Amended by Ordinance No. 92-464, Sec. 1; Ordinance No. 93-484A, Sec. 1; Ordinance No. 94-549B, Sec. 2; Ordinance No. 96-642A, Sec. 1; Ordinance No. 97-681B, Sec. 10; Ordinance No. 98-767, Sec. 7; Ordinance No. 00-857B, Sec. 2; Ordinance No. 00-876A, Sec. 4; Ordinance No. 02-939A, Sec. 1; Ordinance No. 02-950B, Sec. 1.)

7.01.022 Consumer Price Index Adjustment

Commencing with the Metro fiscal year beginning July 1, 2003, and each year thereafter, the amount of revenue to be generated by the taxes imposed by Section 7.01.020(c) shall be the amount of tax revenue authorized in Section 7.01.020(d) for the previous fiscal year increased by a percentage equal to (a) the annualized rate of increase in the Consumer Price Index, All Items, for Portland--Salem (All Urban

Consumers) reported for the first six (6) months of the federal reporting year as determined by the appropriate agency of the United States Government or (b) the most nearly equivalent index as determined by the Metro Council if the index described in (a) is discontinued, or such lesser amount as the ~~Executive Officer~~Chief Operating Officer deems appropriate.

(Ordinance No. 00-857B, Secs. 3-4. Amended by Ordinance No. 02-939A, Sec. 6.)

7.01.023 Amount of Additional Excise Tax; Budgeting of Additional Revenue for Regional Parks and Greenspaces Programs

Commencing with the Metro fiscal year beginning July 1, 2002, the additional excise tax authorized in Section 7.01.020(c) shall be \$1 per ton. Such additional excise tax shall be dedicated to funding Metro's Regional Parks and Greenspaces programs. For each fiscal year thereafter, the additional excise tax dedicated to Metro's Regional Parks and Greenspaces programs shall be not less than the amount of the additional excise tax in the previous fiscal year increased by a percentage equal to (a) the annualized rate of increase in the Consumer Price Index, All Items, for Portland-Salem (All Urban Consumers) reported for the first six (6) months of the federal reporting year as determined by the appropriate agency of the United States Government or (b) the most nearly equivalent index as determined by the Metro Council if the index described in (a) is discontinued, or such lesser amount as the ~~Executive Officer~~Chief Operating Officer deems appropriate.

(Ordinance No. 02-939A, Secs. 2-3.)

7.01.024 Repeal of Provisions Setting Amount of Additional Excise Tax and Budgeting of Revenue for Regional Parks and Greenspaces Programs

Section 7.01.023 is repealed effective June 30, 2004.

(Ordinance No. 02-939A, Secs. 4-5.)

7.01.025 Collection of Tax by ~~District~~Metro

(a) ~~The district~~Metro shall allocate from all payments made directly to ~~the district~~Metro by any user the amount of the tax provided for in Section 7.01.020.

(b) Unless stated separately on any request for payment or charge imposed or established by ~~the district~~Metro the excise tax shall be presumed to be included in the amount imposed or established by ~~the district~~Metro so that the excise tax shall be computed in such amount that the total charged shall equal the amount of compensation owed to ~~the district~~Metro plus the excise tax at the rate established herein. To the extent necessary to give effect to this provision all rates and charges established by ~~the district~~Metro and in effect on the effective date of this chapter shall be deemed decreased by such percentage amount so that after such date the amount of the rate or charge together with the amount of the excise tax provided for in Section 7.01.020 shall be equal to the previously established rate or charge. Thereafter rates and charges shall be subject to amendment as provided by law.

(c) In the case of installment payments paid by the user to ~~the district~~Metro a proportionate share of the tax shall be deemed paid by the user with each installment.

(Ordinance No. 90-333A, Sec. 2)

7.01.028 Budgeting of Excess Revenue

Commencing with the Metro fiscal year beginning July 1, 2000, and each year thereafter, if the tax revenues collected under the tax rate imposed by Section 7.01.020 (e) exceed the net excise tax revenue amount set forth in Section 7.01.020 (d) as adjusted by Section 7.01.022, such additional revenue shall be apportioned as follows:

(a) Such excess net excise tax revenue shall first be placed in a Recovery Rate Stabilization Reserve established in the Metro General fund. The amount of excess net excise tax revenues in such account shall not exceed an amount equal to 10 percent of the total amount of excise tax collected under Metro Code Section 7.01.020(c) during the period of the two (2) most recent Metro fiscal years. The budgeting or expenditure of all such funds within this account shall be subject to review and approval by the Metro Council.

(b) If at the end of any fiscal year, the maximum permitted balance for the Recovery Rate Stabilization Account has been reached, during the following fiscal year any additional excess net excise tax revenues shall be used to increase the tax credit provided under Metro Code Section 7.01.020(g) for any solid waste facility that has achieved a Facility Recovery Rate greater than 45%. Such excess revenue shall be used on a dollar-for-dollar basis to reduce the tax liability of all such qualifying facilities. The amount of the additional tax credit shall not exceed the total excise tax otherwise due from the facility under this chapter.

(c) Any remaining excess revenue over the amounts apportioned in (a) and (b) of this section shall be placed in the account established in (a).

(Ordinance No. 00-857B, Secs. 5-6.)

7.01.030 Collection of Tax by Operator; Rules for Collection

(a) Every operator, unless specifically exempted under the terms of this chapter, shall collect a tax from users as provided for in Section 7.01.020.

(b) The operator shall report the tax to ~~the district~~Metro consistent with the operator's basis of accounting, cash or accrual, except in the case of an operator of a solid waste facility. Solid waste facility operators shall report accrued revenue and excise tax calculated based upon loads or tons deposited at the site at the time of receipt of waste.

(c) For the purpose of reporting the tax owed to ~~the district~~Metro and notwithstanding the provisions of Section 7.01.040, the tax shall be presumed to be included in the amount imposed by the operator so that the excise tax shall be computed in such amount that the total charged shall equal the amount of compensation owed to the operator plus the excise tax owed to ~~the district~~Metro at the rate established herein.

(d) ~~The district~~Metro shall provide the operator with a blank return and instructions that shall be used by the operator to report the excise tax owing to ~~the district~~Metro. The amount of excise tax due shall be paid when the return is filed as provided for in Section 7.01.070.

(e) There is no liability for excise taxes on charge accounts that are worthless and charged off as uncollectible, provided that an affidavit is filed with ~~the district~~Metro stating the name and amount of each uncollectible charge account and documenting good faith efforts that have been made to collect the accounts. Excise taxes may not be deemed uncollectible unless the underlying account is also uncollectible. If the taxes have previously been paid, a deduction may be taken from the next payment due to ~~the district~~Metro for the amount found worthless and charged off. If any such account is thereafter collected, in whole or in part, the amount so collected shall be included in the first return filed after such collection, and the taxes shall be paid with the return.

(f) Installment payments of tax paid by the operator to ~~the district~~Metro shall be applied first to finance charges and penalties and then to the oldest delinquent taxes.

(g) The ~~executive officer~~Chief Operating Officer shall enforce provisions of this chapter and shall have the power to adopt rules and regulations not inconsistent with this chapter as may be necessary to aid in the enforcement. Prior to the adoption of rules and regulations, the ~~executive officer~~Chief Operating Officer shall give public notice of intent to adopt rules and regulations, provide copies of the proposed rules and regulations to interested parties, and conduct a public hearing on the proposed rules and regulations. Public notice shall be given when rules and regulations have been finally adopted. Copies of current rules and regulations shall be made available to the public upon request. It is a violation of this Code to violate rules and regulations duly adopted by the ~~executive officer~~Chief Operating Officer.

(Ordinance No. 90-333A, Sec. 2. Amended by Ordinance No. 92-464; Sec. 1; Ordinance No. 93-509, Sec. 4)

7.01.040 Operator's Duties

(a) Each operator shall collect the tax imposed by this chapter at the same time as payment is collected from every user. The amount of tax shall be separately stated upon the operator's records, and any receipt or invoice rendered by the operator.

(b) Each operator shall file a return in accordance with the terms provided for in Section 7.01.070.

(Ordinance No. 90-333A, Sec. 2. Amended by Ordinance No. 92-464, Sec. 1)

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~~Metro 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 Portland Civic Stadium or the Portland Center for the Performing Arts.

- (3) Persons whose payments to ~~the district~~Metro or to an operator constitute a donation, gift or bequest for the receipt of which neither ~~the district~~Metro nor any operator is under any contractual obligation related thereto.
- (4) Any persons making payment to ~~the district~~Metro 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~~Metro for any purpose other than solid waste disposal, use of a Metro ERC facility, or use of the ~~Metro Washington Park Oregon Zoo~~.
- (6) Users of the following facilities:
 - (A) Facilities that are certified, licensed, franchised or exempt from regulation under Metro Code Chapter 5.01 other than Disposal Sites or Transfer Stations that are not subject to the requirements of Metro Code Section 5.01.125(a) as amended by Metro Ord. 00-866;
 - (B) Facilities that treat to applicable DEQ standards Cleanup Material Contaminated by Hazardous Substances;
 - (C) Licensed yard debris processing facilities or yard debris reload facilities;
 - (D) Tire processing facilities that sort, classify or process used tires into fuel or other products and thereafter produce a Processing Residual that is regulated under Metro Code Chapter 5.01 and that conforms to standards established pursuant to ORS 459.710(2) by the Oregon Environmental Quality Commission.
- (7) Persons making payments to ~~the district~~Metro on behalf of the ~~Metro Washington Park Oregon Zoo~~ for the following purposes:
 - (A) Contributions, bequests, and grants received from charitable trusts, estates, nonprofit corporations, or individuals regardless of whether ~~the district~~Metro agrees to utilize the payment for a specific purpose including all payments to the Oregon 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 Oregon Zoo;
 - (C) Payments that entitle a person to admission to a fund-raising event benefiting the Oregon Zoo that is not held on the grounds of the Oregon Zoo;

- (D) Payments that entitle a person to admission to a special fund-raising event held at the Oregon 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 Oregon Zoo and the proceeds of the event are contributed to the Oregon Zoo;
- (E) Notwithstanding the provisions of subsection (A) through (D) above, all payments received by ~~the district~~Metro for admission to the Oregon Zoo, or which entitle individuals to receipt of food, beverages, goods, or rides on the Oregon 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 lease property at the Glendoveer Golf Course pursuant to a long-term agreement entered into with Multnomah County prior to January 1, 1994.
- (9) A tire processor which is regulated pursuant to Metro Code Chapter 5.01 and which sorts, classifies or processes used tires into fuel or other products, shall be exempt from payment of excise tax on disposal of residual material produced directly as a result of such process, provided said residual conforms to Environmental Quality Commission standards established pursuant to ORS 459.710(2). This exemption is only granted to the extent, and under the terms, specified in the Metro certificate, license or franchise.
- (10) Persons who deliver useful material to disposal sites, provided that such sites are listed as a Metro Designated Facility under Metro Code Chapter 5.05 or are named in a Metro Non-System License and provided further that the Useful Material: (A) is intended to be used, and is in fact used, productively in the operation of such site for purposes including roadbeds and alternative daily cover; and (B) is accepted at such site at no charge.

(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~~Metro facility is exempt from the provisions of this chapter shall be deemed to be a user and not an operator.

(Ordinance No. 90-333A. Amended by Ordinance No. 90-355, Sec. 2; Ordinance No. 95-590, Sec. 1; Ordinance No. 96-634, Sec. 3; Ordinance No. 98-767, Sec. 8; Ordinance No. 00-857B, Sec. 7.)

7.01.060 Registration of Operator; Form and Contents; Execution; Certification of Authority

(a) Every person engaging or about to engage in business as an operator in ~~the district~~Metro shall register with the ~~executive officer~~Chief Operating Officer on a form provided by the ~~executive officer~~Chief Operating Officer. Operators starting business must register within 15 calendar days after

commencing business. The privilege of registration after the date of imposition of such tax shall not relieve any person from the obligation of payment or collection of tax regardless of registration. Registration shall set forth the name under which an operator transacts or intends to transact business, the location of his/her place of business and such other information to facilitate the collection of the tax as the ~~executive officer~~Chief Operating Officer may require. The registration shall be signed by the operator.

(b) The ~~executive officer~~Chief Operating Officer shall, within 10 days after registration, issue without charge a certificate of authority to each registrant to collect the tax from users, together with a duplicate thereof for each additional place of business of each registrant. Certificates shall be nonassignable and nontransferable and shall be surrendered immediately to the ~~executive officer~~Chief Operating Officer upon the cessation of business at the location named or upon the business sale or transfer. Each certificate and duplicate shall state the place of business to which it is applicable and shall be prominently displayed thereon so as to be seen and come to notice readily of all users.

(c) Said certificate shall, among other things, state the following:

- (1) The name of the operator;
- (2) The address of the facility;
- (3) The date upon which the certificate was issued;
- (4) "This Excise Tax Registration Certificate signifies that the person named has fulfilled the requirements of the Excise Tax Chapter of the Code of the ~~Metropolitan Service District~~Metro for the purpose of collecting and remitting the excise tax. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, or to operate a facility without strictly complying with all local applicable laws. This certificate does not constitute a permit or a franchise."

(Ordinance No. 90-333A, Sec. 2)

7.01.070 Due Date; Returns and Payments

(a) The tax shall be collected from the operator by ~~the district~~Metro as provided for in Section 7.01.030. All amounts of such taxes reported by any operator are due and payable to ~~the district~~Metro on the 15th day of each month for the preceding month, and are delinquent if not received by Metro as specified in subsection (d) of this section by the due date. If the due date falls on a holiday or weekend, amounts are delinquent at the end of the first business day that follows. The initial return under this chapter may be for less than a full month preceding the due date. Thereafter, returns shall be made for the applicable monthly period.

(b) On or before the 15th day of the month following each month of operation of a district Metro facility, a return for the preceding month's tax shall be filed with the ~~executive officer~~Chief Operating Officer. The return shall be filed in such form as the ~~executive officer~~Chief Operating Officer may prescribe by every operator liable for payment of tax.

(c) Returns shall show the amount of tax due for the related period. The ~~executive officer~~Chief Operating Officer may require returns to show the total receipts upon which tax was collected or otherwise due, gross receipts of the operator for such period and an explanation in detail of any discrepancy between such amounts, and the amount of receipts exempt, if any.

(d) The person required to file the return shall deliver the return, together with the tax due, to the Metro ~~Administration Services Department of Finance and Management~~Administration Services Department of Finance and Management information. Payment is considered to be delinquent if not received by Metro on or before the due date, by personal delivery to the Metro ~~Administration Services Department of Finance and Management~~Administration Services Department of Finance and Management information during business hours or, if delivered by mail, by receipt in Metro's mail room.

(e) The ~~executive officer~~Chief Operating Officer, if deemed necessary in order to ensure payment or facilitate collection by ~~the district~~Metro of the amount of taxes in any individual case, may require returns and payment of the amount of taxes more frequently than monthly periods.

(Ordinance No. 90-333A, Sec. 2. Amended by Ordinance No. 92-464, Sec. 1; Ordinance No. 93-509, Sec. 5)

7.01.080 Penalties and Finance Charges

(a) Fraud. If the ~~executive officer~~Chief Operating Officer determines that the nonpayment of any remittance due under this chapter is due to fraud or intent to evade the provisions thereof, a penalty of 25 percent of the amount of the tax shall be added thereto in addition to the penalties stated in paragraphs (a) and (b) of this section.

(b) Finance Charges. In addition to any penalties imposed, a finance charge of 1.5 percent shall be assessed on all delinquent taxes required to be remitted by an operator under this chapter. Finance charges shall be assessed on the 15th day of the month following the month in which taxes are due, and on the 15th day of each month thereafter, until paid. Finance charges will be assessed only on unpaid delinquent balances and penalties, and not on previously assessed finance charges, and will continue to be assessed on negotiated repayment schedules.

(c) Petition for Waiver. Any operator who fails to remit the tax herein levied within the time herein stated shall pay the penalties and finance charges herein stated, provided, however, the operator may petition the ~~executive officer~~Chief Operating Officer for waiver and refund of the penalties and finance charges or any portion thereof and the ~~executive officer~~Chief Operating Officer may, if a good and sufficient reason is shown, waive and direct a refund of the penalties or finance charges or any portion thereof.

(Ordinance No. 90-333A, Sec. 2. Amended by Ordinance No. 93-509, Sec. 6; Ordinance No. 94-533; Sec. 2)

7.01.090 Deficiency Determination; Fraud, Evasion, Operator Delay

(a) Deficiency Determinations. If the ~~executive officer~~Chief Operating Officer determines that the results are incorrect, it may compute and determine the amount required to be paid on the basis of the facts contained in the return or returns, or upon the basis of any information within its possession or that may come into its possession. One or more deficiency determinations may be made of the amount

due for one, or more than one, period, and the amount so determined shall be due and payable immediately upon service of notice as herein provided after which the amount determined is delinquent. Penalties or deficiencies shall be applied as set forth in Section 7.01.080.

- (1) In making a determination the ~~executive officer~~Chief Operating Officer may offset overpayment, if any, which may have been previously made for a period or periods against any underpayment for a subsequent period or periods, or against penalties and interest on the underpayments. The interest on underpayments shall be computed in the manner set forth in Section 7.01.080.
- (2) The ~~executive officer~~Chief Operating Officer shall give to the operator a written notice of its determination. The notice may be served personally or by mail. If by mail, the notice shall be addressed to the operator at his/her address as it appears on the records of the ~~executive officer~~Chief Operating Officer. In case of service by mail or any notice required by this chapter, the service is complete at the time of deposit in the United States Post Office.
- (3) Except in the case of fraud or intent to evade this chapter or authorized rules and regulations, every deficiency determination shall be made and notice thereof mailed within three (3) years after the last day of the month following the close of the period for which the amount is proposed to be determined or within three (3) years after the return is filed, whichever period expires the later.
- (4) Any determination shall become due and payable immediately upon receipt of notice and shall become final within 10 days after the ~~executive officer~~Chief Operating Officer has given notice thereof, provided, however, the operator may petition for redemption and refund if the petition is filed before the determination becomes final as herein provided.

(b) Fraud, Refusal to Collect, Evasion. If any operator shall fail or refuse to collect said tax or to make within the time provided in this chapter any report and remittance of said tax or any portion thereof required by this chapter, or makes a fraudulent return or otherwise willfully attempts to evade this chapter, the ~~executive officer~~Chief Operating Officer shall proceed in such manner as deemed best to obtain facts and information on which to base an estimate of the tax due. As soon as the ~~executive officer~~Chief Operating Officer has determined the tax due that is imposed by this chapter from any operator who has failed or refused to collect the same and to report and remit said tax, it shall proceed to determine and assess against such operator the tax, interest and penalties provided for by this chapter. In case such determination is made, the ~~executive officer~~Chief Operating Officer shall give a notice in the manner aforesaid of the amount so assessed. Such determination and notice shall be made and mailed within three (3) years after discovery by the ~~executive officer~~Chief Operating Officer of any fraud, intent to evade or failure or refusal to collect said tax, or failure to file return. Any determination shall become due and payable immediately upon receipt of notice and shall become final within 10 days after the ~~executive officer~~Chief Operating Officer has given notice thereof, provided, however, the operator may petition for redemption and refund if the petition is filed before the determination becomes final as herein provided.

(c) Operator Delay. If the ~~executive officer~~Chief Operating Officer believes that the collection of any tax or any amount of tax required to be collected and paid to ~~the district~~Metro will be

jeopardized by delay, or if any determination will be jeopardized by delay, the ~~executive officer~~Chief Operating Officer shall thereupon make a determination of the tax or amount of tax required to be collected, noting the fact upon the determination. The amount so determined as herein provided shall be immediately due and payable, and the operator shall immediately pay such determination to the ~~executive officer~~Chief Operating Officer after service of notice thereof; provided, however, the operator may petition, after payment has been made, for redemption and refund of such determination, if the petition is filed within 10 days from the date of service of notice by the ~~executive officer~~Chief Operating Officer.

(Ordinance No. 90-333A, Sec. 2)

7.01.100 Hearings, Contested Cases

(a) Any person against whom a determination is made under ~~Section~~ 7.01.090 or any person directly interested may request a hearing on the matter in contest and request redemption and refund within the time required in ~~Section~~ 7.01.090. The determination becomes final at the expiration of the allowable time and no hearing may be requested thereafter. Hearings shall be conducted as provided for in ~~Chapter~~ 2.05 except that the deadline for requesting a hearing shall be as provided for herein.

(b) No request for a hearing and refund or appeal therefrom shall be effective for any purpose unless the operator has first complied with the payment provisions hereof.

(Ordinance No. 90-333A, Sec. 2)

7.01.110 Security for Collection of Tax

The ~~executive officer~~Chief Operating Officer, whenever deemed necessary to ensure compliance with this chapter, may require any operator subject thereto to deposit with it such security in the form of cash, bond, or other security as the ~~executive officer~~Chief Operating Officer may determine. The amount of the security shall be fixed by the ~~executive officer~~Chief Operating Officer but shall not be greater than twice the operator's estimated average liability for the period for which he/she files returns, determined in such manner as the ~~executive officer~~Chief Operating Officer deems proper. The amount of the security may be increased or decreased by the ~~executive officer~~Chief Operating Officer subject to the limitation herein provided.

(Ordinance No. 90-333A, Sec. 2)

7.01.120 Refunds

(a) Refunds by District to Operator. Whenever the amount of any tax, penalty, or interest has been paid more than once or has been erroneously collected or received by the ~~executive officer~~Chief Operating Officer under this chapter, it may be refunded, provided a verified claim in writing therefore, stating the specific reason upon which the claim is founded, is filed with the ~~executive officer~~Chief Operating Officer within three (3) years from the date of payment. The claim shall be made on forms provided by the ~~executive officer~~Chief Operating Officer. If the claim is approved by the ~~executive officer~~Chief Operating Officer, the excess amount collected or paid may be refunded or may be credited on any amounts then due and payable from the operator from whom it was collected or by whom paid and the balance may be refunded to such operator, his/her administrators, executors, or assignees.

(b) Refunds by District Metro to Users. Whenever the tax required by this chapter has been collected by ~~the district Metro~~ or by an operator, and deposited by the operator with the ~~executive officer~~ Chief Operating Officer, and it is later determined that the tax was erroneously collected or received by the ~~executive officer~~ Chief Operating Officer, it may be refunded by the ~~executive officer~~ Chief Operating Officer to the user, provided a verified claim in writing therefore, stating the specific reason on which the claim is founded, is filed with the ~~executive officer~~ Chief Operating Officer within three (3) years from the date of payment.

(Ordinance No. 90-333A, Sec. 2)

7.01.130 Administration

(a) Records Rrequired Ffrom Ooperator, et cetera; Fform. Every operator shall keep records of all sales and transactions. All records shall be retained by the operator for a period of three (3) years and six (6) months after they come into being.

(b) Examination of Rrecords; Investigations. The ~~executive officer~~ Chief Operating Officer, or any person authorized in writing by the ~~executive officer~~ Chief Operating Officer, may examine during normal business hours the books, papers and accounting records relating to any operator, after notification to the operator liable for the collection and payment of the tax, and may investigate the business of the operator in order to verify the accuracy of any return made, or if no return is made by the operator, to ascertain and determine the amount required to be paid.

(c) At any time within three (3) years after any tax or any amount of tax required to be collected becomes due and payable or at any time within three (3) years after any determination becomes final, the ~~executive officer~~ Chief Operating Officer may cause the ~~general counsel~~ Metro Attorney to bring an action in the courts of this state, or any other state, or of the United States in the name of ~~the district Metro~~ to collect the amount delinquent together with penalties and interest.

(d) Confidential Ffinancial Iinformation. Except as otherwise required by law, it shall be unlawful for the ~~executive officer~~ Chief Operating Officer, or any officer, employee, or agent, to divulge, release, or make known in any manner any financial information submitted or disclosed to the ~~executive officer~~ Chief Operating Officer under the terms of this chapter. Nothing in this subsection shall be construed to prohibit:

- (1) The disclosure to, or the examination of, financial records by ~~district Metro~~ officials, employees or agents for the purpose of administering or enforcing the terms of this chapter, or collecting taxes imposed under the terms of this chapter; or
- (2) The disclosure to the taxpayer or his/her authorized representative of financial information, including amounts of excise taxes, penalties, or interest, after filing of a written request by the taxpayer or his/her authorized representative and approval of the request by the ~~executive officer~~ Chief Operating Officer; or
- (3) The disclosure of the names and addresses of any persons to whom excise tax registration certificates have been issued; or

- (4) The disclosure of general statistics in a form which would prevent the identification of financial information regarding any particular taxpayer's return or application; or
- (5) The disclosure of financial information to the office of ~~general counsel~~the Metro Attorney, to the extent the ~~executive officer~~Chief Operating Officer deems disclosure or access necessary for the performance of the duties of advising or representing the ~~executive officer~~Chief Operating Officer.

(Ordinance No. 90-333A, Sec. 2)

7.01.150 Violations

It is unlawful for any operator or other person so required to fail or refuse to register as required herein, or to furnish any return required to be made, or fail or refuse to furnish a supplemental return or other data required by the ~~executive officer~~Chief Operating Officer or to render a false or fraudulent return. No person required to make, render, sign, or verify any report shall make any false or fraudulent report, with intent to defeat or evade the determination of any amount due required by this chapter. The ~~executive officer~~Chief Operating Officer may impose a civil penalty of up to \$500 for each violation of this chapter. A violation includes, but is not limited to:

- (a) Failure to file any required tax payment and report, including any penalties and interest, within 60 days of the due date;
- (b) Filing a false or fraudulent report;
- (c) Failure to register a facility with the ~~executive officer~~Chief Operating Officer as described in Section 7.01.060;
- (d) Failure to maintain a separate account for the excise tax collected.

(Ordinance No. 90-333A, Sec. 2).

7.01.160 Effective Date and Effect of Initiative Passage

This Ordinance shall be effective on December 1, 2000, *provided that* during the State of Oregon General Election conducted on November 7, 2000, no amendment to the Oregon Constitution is adopted by the people which prohibits the imposition, adoption or levy of any new tax, fee or charge without first obtaining voter approval. If during such election, such an amendment is adopted by the people of the State of Oregon, the provisions of this Ordinance shall not become effective and the provisions of Metro Code Chapter 7.01 in effect as of June 1, 2000 shall remain in full force and effect.

(Ordinance No. 00-857B, Secs. 8-9.)

7.01.170 Council Review of Ordinance Effect

Between March 1, 2002 and March 31, 2002, the Metro Council shall conduct a review of the impacts and effects of this ordinance on the Metro Solid Waste System and shall conduct at least one public hearing regarding any such impacts and effects.

(Ordinance No. 00-857B, Secs. 10-11.)

7.01.180 Excise Tax Credit Program Review

(a) The Director of the Regional Environmental Management Department shall make a semi-annual report to the Metro Council on the status of the excise tax credit program for which provision is made in Metro Code Section 7.01.020(g). The report shall include the aggregate amount of all excise tax credits granted during the preceding six (6) months and the amount granted to each facility eligible for the credits. The report shall also project if the total aggregate amount of excise tax credits for which the Metro Council has budgeted is expected to be reached.

(b) By March 31, 2004, and every two (2) years thereafter, the Director of the Regional Environmental Management Department shall convene a committee of stakeholders to review and report on the effectiveness of the solid waste excise tax credit program and to recommend to the Metro Council any proposed changes to such programs.

(Ordinance No. 02-950B, Secs. 2-3.)

7.01.190 Administrative Procedures for Excise Tax Credits

The ~~Executive Officer~~ Chief Operating Officer may establish additional administrative procedures regarding the Excise Tax Credits to set forth eligibility requirements for such credits and to provide for incremental Excise Tax Credits associated with Recovery Rates which fall between the ranges set forth in Metro Code Chapter 7.01.020(g).

(Ordinance No. 02-950B, Secs. 4-5.)

Exhibit B
Metro Charter 2003 Amendments to Metro Code

Chapter ~~8.01~~7.02, Financing Powers

~~TITLE VIII~~

~~FINANCING POWERS~~

CHAPTER	TITLE
8.01 7.02	FINANCING POWERS

CHAPTER ~~8.017.02~~

FINANCING POWERS

SECTIONS	TITLE
8.017.02.010	Definitions
8.017.02.020	General Obligation Bonds
8.017.02.030	Limited Tax General Obligation Bonds
8.017.02.040	Revenue Bonds
8.017.02.050	Lease Purchase Agreements and Credit Agreements
8.017.02.060	Notes, Warrants and Commercial Paper
8.017.02.070	Refunding Bonds
8.017.02.080	Credit Facilities
8.017.02.090	Financial Enhancement Products
8.017.02.010	Terms and Effect of Pledge, Mortgage or Grant of Security Interest as Security for Metro Obligations
8.017.02.011	Authorizing Actions
8.017.02.012	Terms of Obligations
8.017.02.013	Investment of Funds
8.017.02.014	Manner of Scale

~~8.017.02.010~~ Definitions

Notwithstanding anything expressed or implied in the Metro Code to the contrary, as used in this Title VIII chapter of the Metro Code, the following terms shall have the respective meanings set forth in this section ~~8.017.02.010~~.

(a) "Authorizing action" means a resolution (or, if so determined by Council as provided in Section ~~8.017.02.011~~), an ordinance duly adopted by the Council for the purpose of:

- (1) Authorizing the issuance and sale of a series of bonds;
- (2) Authorizing any credit facility or financial enhancement product and any related agreements deemed necessary, appropriate or beneficial in connection with any bonds; or
- (3) Establishing a comprehensive plan for the Bond financing of various systems, facilities and operations of Metro.

(b) "Bond measure" shall mean a ballot measure submitted by the Council to the electors of Metro as provided in Section ~~8.017.02.020~~ of the Metro Code for the purpose of requesting elector authorization to issue general obligation bonds for any lawful purpose.

(c) "Bonds" means any obligations issued or incurred by Metro in the exercise of its Charter borrowing and financing powers as evidences of indebtedness for money borrowed or for the forbearance of money regardless of how such obligations may be designated, including but not limited to revenue

bonds, general obligation bonds, limited tax general obligation bonds, lease purchase agreements, credit agreements, notes, warrants, commercial paper, any other evidences of indebtedness authorized to be issued by the Metro Council in accordance with the terms of the Charter and the Metro Code, and refunding bonds.

(d) "Charter" means the 1992 Metro Charter approved by the electors of Metro on November 2, 1992 and effective on January 1, 1993, as the same may be amended from time to time in accordance with its terms.

(d) "Council" means the Metro Council.

(e) "Credit agreement" means any loan agreement, line of credit or other similar lending arrangement (howsoever designate) in which one or more financial institutions or any other persons or entities agrees to loan funds to Metro.

(f) "Credit facility" means any letter of credit, line of credit, surety bond, municipal bond insurance policy or other facility or device provided by a person or entity other than Metro for the purpose of enhancing the creditworthiness or marketability of any Bonds.

(g) "Financial enhancement product" means any instrument, arrangement or agreement relating to any bonds that Council determines is in the interest of Metro to acquire or enter into in order to provide a reasonable hedge against, or eliminate or reduce Metro's exposure to, perceived risks, generate additional cash or savings, or otherwise provide Metro with potential or assured benefits in connection with or relating to any bonds, including but not limited to: interest rate or currency exchange agreements; insurance agreements; forward purchase contracts; conversion agreements; futures contracts; contracts providing for payments based on levels of, or changes in, interest rates, currency exchange rates or other indices; interest rate floors, caps or collars; and agreements to exercise at a future date, or to refrain from exercising, specified rights of Metro with respect to its bonds (including but not limited to redemption rights or the right to refund outstanding bonds), including the exercise or non-exercise of any such right at the direction or option of a third party.

(h) "General Obligation Bond" means any bond constituting a full faith and credit obligation of Metro payable from ad valorem property taxes that may be levied and collected in an amount sufficient to pay when due all amounts owing on such bond without limitation as to the rate or amount of such taxes by virtue of any constitutional or statutory tax limitation provision (including but not limited to Article XI, Section 11, and Article XI, Section 11b, of the Oregon Constitution).

(i) "Lease purchase agreements" means any lease purchase agreement, installment purchase agreement or other similar financing arrangement or instrument entered into for the purpose of financing the acquisition by Metro of the property subject to such agreement, arrangement or instrument, but not including any true lease or similar arrangement wherein Metro does not obtain an equity interest in the property subject to such lease or arrangement.

(j) "Limited Tax General Obligation Bond" means any bond constituting a full faith and credit obligation of Metro payable from ad valorem property taxes that may be levied and collected subject to the limitations on the rate or amount of such taxes imposed by virtue of any applicable constitutional or statutory tax limitation provision (including but not limited to Article XI, Section 11, or Article XI, Section 11b, of the Oregon Constitution).

(k) "Obligations" means:

- (1) Bonds; and
- (2) Metro's obligations under or with respect to any credit facility or financial enhancement product.

(l) "Property" means any tangible or intangible real or personal property of every type and description, and any and all interests in such property.

(m) "Refunding bonds" means any bonds issued for the purpose of refunding, whether at or in advance of maturity, any bond or other obligations of Metro.

(n) "Revenue bond" means any bond (including any special obligation bond as such term is used in the Charter) payable from or secured by a pledge of and a lien on any revenues but which does not constitute a general obligation bond.

(o) "Revenues" means all taxes (including but not limited to any excise taxes, ad valorem property taxes and other taxes), fees, tolls, user charges, rates, tariffs, royalties, assessments, rents, gifts, grants and all other receipts, payments and income (including but not limited to investment income) of whatever kind or nature levied, imposed, received or generated by Metro.

(Ordinance No. 93-495, Sec. 2)

8.017.02.020 General Obligation Bonds

(a) Submission of Bond Measure to Electors. The Council may from time to time submit to the electors of Metro a bond measure to be voted upon at any general or special election. A bond measure shall be submitted to the electors pursuant to a resolution duly adopted by Council and shall be in such form as may be required under applicable law. More than one bond measure may be submitted to the electors for consideration at a single election.

(b) Issuance of General Obligation Bonds. At any time after a bond measure has been approved by the affirmative vote of a majority of the electors voting thereon, Metro may proceed to issue the general obligation bonds authorized in such bond measure, which general obligation bonds may be issued from time to time in one or more series provided that the aggregate amount of all series originally issued under a particular bond measure (exclusive of refunding bonds issued to refund and replace outstanding general obligation bonds in order to realize a debt service savings) does not exceed the amount authorized by the bond measure. All general obligation bonds shall be issued pursuant to an authorizing action as provided in Section 8.017.02.011 of the Metro Code.

(c) Levy of Taxes; Payment from Other Funds. All general obligation bonds issued by Metro shall be secured by the full faith and credit and ad valorem taxing powers of Metro. Metro shall annually levy a direct ad valorem tax upon all of the taxable property within Metro's jurisdictional boundaries in an amount which, after taking into consideration discounts taken and delinquencies that may occur in the payment of such taxes and all other monies reasonably expected to be available and used for the payment of debt service on outstanding general obligation bonds, shall be sufficient to pay when

due the principal of and interest on all issued and outstanding general obligation bonds. The ad valorem taxes to be levied by Metro for the purpose of paying when due the principal of and interest on all issued and outstanding general obligation bonds shall be levied and collected outside of, and in addition to, any ad valorem taxes levied and collected by Metro within any voter approved tax base, shall not be subject to the limitations imposed by Article XI, Section 11b, of the Oregon Constitution, and shall be levied in an amount sufficient to pay when due such general obligation bonds without regard or limit as to the rate or amount of such ad valorem taxes.

In the authorizing action under which a particular series of general obligation bonds is issued, Metro may provide that such general obligation bonds shall also be payable from all or any portion of Metro's revenues (but subject to such prior claims on such revenues or portions thereof as may have theretofore been created). In addition to the payment of any general obligation bonds from the ad valorem property taxes levied and collected for such purpose as provided in the preceding paragraph, Metro may pay any amounts owing under any general obligation bonds from any other funds lawfully available for such purpose regardless of whether or not provision for payment thereof from such other funds has been made in the authorizing action as provided in the preceding sentence.

(d) Pledge of Other Revenues and Property. In the authorizing action under which a particular series of general obligation bonds is issued, Metro may:

- (1) Pledge as additional security for such general obligation bonds all or any portion of its revenues; and
- (2) Grant mortgages, trust deeds or security interests in any property of Metro as additional security for the payment of such general obligation bonds.

(Ordinance No. 93-495, Sec. 2)

8-017.02.030 Limited Tax General Obligation Bonds

(a) Issuance of Limited Tax General Obligation Bonds. Metro may issue from time to time limited tax general obligation bonds for such purposes as are determined by Council to be necessary or appropriate to carry out the functions, duties and operations of Metro. All limited tax general obligation bonds shall be issued pursuant to an authorizing action as provided in Section 8-017.02.011 of the Metro Code.

(b) Payment from Other Funds. In the authorizing action under which a particular series of limited tax general obligation bonds is issued, Metro may provide that such limited tax general obligation bonds shall be payable from all or any portion of Metro's revenues (but subject to such prior claims on such revenues or portions thereof as may have theretofore been created). In addition to the payment of any limited tax general obligation bonds from the ad valorem property taxes levied and collected or otherwise pledged or available to be used for such purpose, Metro may pay any amounts owing under any limited tax general obligation bonds from any other funds lawfully available for such purpose regardless of whether or not provision for payment thereof from such other funds has been made in the authorizing action as provided in the preceding sentence; provided that the foregoing is not intended, nor shall it be construed, to create a legal obligation on Metro's part to pay any amounts owing under any limited tax general obligation bonds from any revenues not specifically pledged thereto or from which such limited tax general obligation bonds have not specifically been made payable in accordance with their terms.

(c) Pledge of Other Revenues and Property. In the authorizing action under which a particular series of limited tax general obligation bonds is issued, Metro may:

- (1) Pledge as additional security for such limited tax general obligation bonds all or any portion of its revenues; and
- (2) Grant mortgages, trust deeds or security interests in any property of Metro as additional security for the payment of such limited tax general obligation bonds.

(Ordinance No. 93-495, Sec. 2)

8-017.02.040 Revenue Bonds

(a) Issuance of Revenue Bonds. Metro may issue from time to time revenue bonds for such purposes as are determined by Council to be necessary or appropriate to carry out the functions, duties and operations of Metro. Metro may issue revenue bonds for the purpose of financing such property as Council shall determine is necessary or desirable in order to carry out or assist or advance the carrying out of Metro's function, duties and operations regardless of whether such property is to be owned by Metro or any other public or private agency or person and regardless of whether such property is to be located within or without the jurisdictional boundaries of Metro. In connection with the issuance of revenue bonds to finance any property which is to be owned by any other public or private agency or person, Metro shall enter into a lease purchase, installment sale or loan agreement with such public or private agency or person providing for lease purchase, installment sale or loan payments which, together with other amounts pledged for such purpose, shall be sufficient to pay when due the principal of, premium (if any) and interest on such revenue bonds. All revenue bonds shall be issued pursuant to an authorizing action as provided in Section 8-017.02.011 of the Metro Code. Prior approval of the electors of Metro shall not be required as a condition precedent to the issuance of any revenue bonds under the Metro Code.

(b) Payment from Revenues. In the authorizing action under which a particular series of revenue bonds is issued, Metro may provide that such revenue bonds shall be payable from all or any portion of Metro's revenues (but subject to such prior claims on such revenues or portions thereof as may have theretofore been created). Metro may pay any amounts owing under any revenue bonds from any other funds lawfully available for such purpose regardless of whether or not provision for payment thereof from such other funds has been made in the authorizing action as provided in the preceding sentence; provided that the foregoing is not intended, nor shall it be construed, to create a legal obligation on Metro's part to pay any amounts owing under any revenue bonds from any revenues not specifically pledged thereto or from which such revenue bonds have not specifically been made payable in accordance with their terms.

(c) Pledge of Other Revenues and Property. In the authorizing action under which a particular series of revenue bonds is issued, Metro may:

- (1) Pledge as additional security for such revenue bonds all or any portion of its revenues; and

- (2) Grant mortgages, trust deeds or security interests in any property of Metro as additional security for the payment of such revenue bonds.

(Ordinance No. 93-495, Sec. 2)

8.017.02.050 Lease Purchase Agreements and Credit Agreements

(a) Entering into Lease Purchase Agreements and Credit Agreements. Metro may from time to time enter into lease purchase agreements and Credit agreements for such purposes and term of years as determined by Council to be necessary or appropriate in order to carry out the functions, duties and operations of Metro. All lease purchase agreements and credit agreements shall be entered into pursuant to an authorizing action as provided in Section 8.017.02.011 of the Metro Code. In connection with any lease purchase agreement or credit agreement, Metro may authorize the issuance and sale of certificates of participation in the lease purchase payments or other payment obligations of Metro under such lease purchase agreement or credit agreement.

(b) Payment from Other Funds. In the authorizing action under which a particular lease purchase agreement or credit agreement is authorized, Metro may provide that such lease purchase agreements shall be payable from all or any portion of Metro's revenues (but subject to such prior claims on such revenues or portions thereof as may have theretofore been created). Metro may pay any amounts owing under any lease purchase agreement or credit agreement from any other funds lawfully available for such purpose regardless of whether or not provision for payment thereof from such other funds has been made in the authorizing action as provided in the preceding sentence; provided that the foregoing is not intended, nor shall it be construed, to create a legal obligation on Metro's part to pay any amounts owing under any lease purchase agreement or credit agreement from any revenues not specifically pledged thereto or from which the amounts owing under such lease purchase agreement or credit agreement have not been specifically made payable.

(c) Pledge of Other Revenues and Property. In the authorizing action under which a particular lease purchase agreement or credit agreement is entered into, Metro may:

- (1) Pledge as additional security for any amounts owing under such lease purchase agreement or credit agreement all or any portion of its revenues; and
- (2) Grant mortgages, trust deeds or security interests in any property of Metro as additional security for the payment of the amounts owing under such lease purchase agreement or credit agreement.

(Ordinance No. 93-495, Sec. 2)

8.017.02.060 Notes, Warrants and Commercial Paper

(a) Issuance of Notes, Warrants and Commercial Paper. Metro may from time to time issue notes, warrants, commercial paper or other similar obligations for such purposes as are determined by Council to be necessary or appropriate in order to carry out the functions, duties and operations of Metro, including but not limited to the following purposes:

- (1) To avoid cash flow deficits while awaiting receipt of any revenues;

- (2) To provide interim financing for property to be acquired or constructed by Metro;
- (3) To provide needed working capital; or
- (4) To refund obligations authorized under this section or any other bonds. All notes, warrants, commercial paper or other similar obligations shall be issued pursuant to an authorizing action as provided in Section 8.047.02.011 of the Metro Code.

(b) Payment from Revenues. In the authorizing action under which a particular series of notes, warrants, commercial paper or other similar obligations are issued, Metro may provide that such obligations shall be payable from all or any portion of Metro's revenues (but subject to such prior claims on such revenues or portions thereof as may have theretofore been created). Metro may pay any amounts owing under any notes, warrants, commercial paper or other similar obligations from any other funds lawfully available for such purpose regardless of whether or not provision for payment thereof from such other funds has been made in the authorizing action as provided in the preceding sentence; provided that the foregoing is not intended, nor shall it be construed, to create a legal obligation on Metro's part to pay any amounts owing under any notes, warrants, commercial paper or other similar obligations from any revenues not specifically pledged thereto or from which such notes, warrants, commercial paper or other similar obligations have not specifically been made payable in accordance with their terms.

(c) Pledge of Other Revenues and Property. In the authorizing action under which a particular series of notes, warrants, commercial paper or other similar obligations is issued, Metro may:

- (1) Pledge as additional security for such notes, warrants, commercial paper or other similar obligations all or any portion of its revenues; and
- (2) Grant mortgages, trust deeds or security interests in any property of Metro as additional security for the payment of such notes, warrants, commercial paper or other similar obligations.

(Ordinance No. 93-495, Sec. 2)

8.047.02.070 Refunding Bonds

(a) Issuance of Refunding Bonds. Metro may issue from time to time refunding bonds for the purpose of refunding, either at or in advance of maturity, any bonds previously issued by Metro or any bonds or other obligations issued by Metro prior to the effective date of the Charter. Metro may issue refunding bonds for the purpose of refunding and replacing outstanding general obligation bonds in advance of their maturity even if the aggregate principal amount of such refunding bonds exceeds the aggregate principal amount of such general obligation bonds authorized to be issued under the related bond measure so long as the debt service payable on such refunding bonds is less than the debt service payments on the general obligation bonds refunded and replaced thereby. All refunding bonds shall be issued pursuant to an authorizing action as provided in Section 8.047.02.011 of the Metro Code.

(b) Payment from Revenues. In the authorizing action under which a particular series of refunding bonds is issued, Metro may provide that such refunding bonds shall be payable from all or any

portion of Metro's revenues (but subject to such prior claims on such revenues or portions thereof as may have theretofore been created), including specifically any revenues from which the bonds to be refunded thereby are payable. Metro may pay any amounts owing under any refunding bonds from any other funds lawfully available for such purpose regardless of whether or not provision for payment thereof from such other funds has been made in the authorizing action as provided in the preceding sentence; provided that the foregoing is not intended, nor shall it be construed, to create a legal obligation on Metro's part to pay any amounts owing under any refunding bonds from any revenues not specifically pledged thereto or from which such refunding bonds have not specifically been made payable in accordance with their terms.

(c) Pledge of Other Revenues and Property. In the authorizing action under which a particular series of refunding bonds is issued, Metro may:

- (1) Pledge as additional security for such refunding bonds all or any portion of its revenues; and
- (2) Grant mortgages, trust deeds or security interests in any property of Metro as additional security for the payment of such refunding bonds.

(Ordinance No. 93-495, Sec. 2)

8.017.02.080 Credit Facilities

(a) Authority to Obtain Credit Facility. Metro may obtain a credit facility for the purpose of:

- (1) Providing additional security for the payment of all or any portion of the amounts owing under or with respect to any bonds;
- (2) Providing liquidity support for bonds which are subject to purchase, redemption or other tender at the option of the owner thereof;
- (3) Funding, in lieu of cash, all or any portion of any debt service reserve established with respect to any bonds; or
- (4) Any other purpose that Council determines to be beneficial to Metro in connection with any bond financing, including specifically the provision of security for Metro's obligations under or with respect to any financial enhancement product.

The authorization to obtain a credit facility and to enter into any related agreements shall be set forth in an authorizing action as provided in Section 8.017.02.011 of the Metro Code. Metro may enter into agreements with the provider(s) of such credit facility containing such covenants, terms and conditions as shall be approved or authorized by Council in the related authorizing action.

(b) Payment from Revenues. In the authorizing action relating to a particular credit facility, Metro may provide that its obligations under or with respect to any credit facility shall be payable from all or any portion of Metro's revenues (but subject to such prior claims on such revenues or portions thereof as may have theretofore been created), including (but not limited to) the revenues from which the bonds or financial enhancement product to which such credit facility relates are payable. Metro may pay any

amounts owing under or with respect to any credit facility from any other funds lawfully available for such purpose regardless of whether or not provision for payment thereof from such other funds has been made in the authorizing action as provided in the preceding sentence; provided that the foregoing is not intended, nor shall it be construed, to create a legal obligation on Metro's part to pay any amounts owing under or with respect to any credit facility from any revenues not specifically pledged thereto or from which such credit facility obligations have not specifically been made payable in accordance with its terms.

(c) Pledge of Other Revenues and Property. In the authorizing action under which a particular credit facility is authorized, Metro may:

- (1) Pledge as additional security for its obligations under or with respect to such credit facility all or any portion of its revenues; and
- (2) Grant mortgages, trust deeds or security interests in any property of Metro as additional security for the payment of its obligations under or with respect to such credit facility.

(Ordinance No. 93-495, Sec. 2)

8-017.02.090 Financial Enhancement Products

(a) Authority to Obtain Financial Enhancement Product. Metro may obtain or enter into financial enhancement products prior to, simultaneous with or subsequent to the issuance of any bonds. The authorization to obtain or enter into a financial enhancement product and to enter into any related agreements shall be set forth in an authorizing action as provided in Section 8-017.02.011 of the Metro Code. A financial enhancement product may contain such terms and conditions (including but not limited to payment terms, security, agreement term, defaults and remedies) as the Council may approve or authorize in the related authorizing action.

(b) Payment from Revenues. In the authorizing action relating to a particular financial enhancement product, Metro may provide that its obligations under or with respect to the financial enhancement product shall be payable from all or any portion of Metro's revenues (but subject to such prior claims on such revenues or portions thereof as may have theretofore been created), including (but not limited to) the revenues from which the bonds to which such financial enhancement product relates are payable. Metro may pay any amounts owing under or with respect to any financial enhancement product from any other funds lawfully available for such purpose regardless of whether or not provision for payment thereof from such other funds has been made in the authorizing action as provided in the preceding sentence; provided that the foregoing is not intended, nor shall it be construed, to create a legal obligation on Metro's part to pay any amounts owing under or with respect to any financial enhancement product from any revenues not specifically pledged thereto or from which such financial enhancement product obligations have not specifically been made payable in accordance with its terms.

(c) Pledge of Other Revenues and Property. In the authorizing action under which a particular financial enhancement product is authorized, Metro may:

- (1) Pledge as additional security for its obligations under or with respect to such financial enhancement products all or any portion of its revenues; and

- (2) Grant mortgages, trust deeds or security interests in any property of Metro as additional security for the payment of its obligations under or with respect to such financial enhancement product.

(Ordinance No. 93-495, Sec. 2)

8.017.02.010 Terms and Effect of Pledge, Mortgage or Grant of Security Interest as Security for Metro Obligations

(a) Terms of Pledge, Mortgage or Grant of Security Interest. Any pledge, mortgage or grant of security interest of or in any revenues or property given or made by Metro as security for the payment or performance of any obligation may be made on such terms and conditions, grant or confer such rights and remedies to or on Metro and the persons for whose benefit the security represented thereby is given, and reserve to Metro such rights and privileges (including but not limited reservation of the right to pledge, mortgage or grant security interests in the subject revenues or property on a parity, subordinate or superior lien basis as security for other obligations) as Ceouncil shall approve or authorize in the related authorizing action.

(b) Effect of Pledge, Mortgage or Grant of Security Interest. Any pledge, mortgage or grant of security interest of or in any revenues or property given or made by Metro as security for the payment of any amounts owing under or with respect to any bonds, credit facility or financial enhancement product shall be valid, binding and fully perfected:

- (1) From the time the pledge, mortgage or grant of security interest is made; and
- (2) Against all persons having claims of any kind against Metro whether in tort, contract or otherwise irrespective of whether such persons have notice thereof.

The revenues and other property so pledged, mortgaged or subjected to a security interest by Metro shall be immediately subject to the lien of the pledge, mortgage or security interest without physical delivery, filing, notice or any other act. Except as otherwise expressly provided in the related authorizing action, the lien of any such pledge, mortgage or security interest shall be superior to all other claims and liens of any kind whatsoever.

(Ordinance No. 93-495, Sec. 2)

8.017.02.011 Authorizing Actions

(a) Adoption of Authorizing Action. The Ceouncil shall authorize all obligations by means of an authorizing action adopted at any regular or special meeting. All authorizing actions shall be in the form of resolutions of the Ceouncil; provided that Ceouncil may in its discretion, but shall not be required to, adopt an authorizing action which is in the form of an ordinance.

(b) Contents of Authorizing Action. An authorizing action may contain such authorizations and provisions relating to the issuance and sale of the subject obligations, the terms thereof and security therefor, the establishment of various funds and accounts in connection therewith, and covenants and agreements pertaining to the payment and performance of Metro's obligations with respect to the subject

obligations, all as the Council determines to be necessary or appropriate, including but not limited to the following:

- (1) The pledge of any revenues as security for the payment of the amounts owing under and with respect to the subject obligations and the performance by Metro of its covenants and agreements with respect thereto and the segregation of any revenues pledged to the payment of the subject obligations in any funds or accounts designated for such purpose, all on such terms and conditions, with such remedies afforded the owners of the subject obligations (or a trustee or other fiduciary for such owners) and subject to the reservation by Metro of such rights and privileges as shall be set forth in the authorizing action or authorized in the authorizing action to be set forth in another document, instrument or agreement relating to the subject obligations;
- (2) The mortgage of or grant of a security interest in any property as security for the payment of the amounts owing under and with respect to the subject obligations and the performance by Metro of its covenants and agreements with respect thereto, all on such terms and conditions, with such remedies afforded the owners of the subject obligations (or a trustee or other fiduciary for such owners) and subject to the reservation by Metro of such rights and privileges as shall be set forth in the authorizing action or authorized in the authorizing action to be set forth in another document, instrument or agreement relating to the subject obligations;
- (3) The establishment, imposition, levy and collection of rates, charges, fees and taxes, at such levels or in such amounts as shall be deemed by Council to be necessary or appropriate in order to produce revenues in the amounts and at the times required to pay the subject obligations as and when due and to provide any additional margin of net revenues in excess of debt service as the Council determines to be necessary or appropriate in order to better secure the payment of all amounts owing under and with respect to the subject obligation;
- (4) The appointment of underwriters, financial consultants, feasibility consultants, consulting engineers, other professional consultants and advisors, trustees, paying agents, registrar, transfer agents, remarketing agents, indexing agents, depositaries, and other agents deemed by Council to be necessary or appropriate in connection with the transactions contemplated by the authorizing action; provided that it shall not be necessary for a single person or entity to serve as trustee, paying agent, registrar and transfer agent for a single series of obligations or for all outstanding obligations, but Metro shall have the right to appoint different persons or entities to serve in one or more of such capacities for a single series of obligations and for different series of obligations; and provided further that Metro may act as its own paying agent, registrar or transfer agent with respect to any one or more series of obligations;
- (5) The establishment of debt service reserve funds, renewal and replacement funds, major maintenance funds, depreciation funds, environmental clean-up or liability funds, escrow funds and other such funds and accounts of every kind and

description as Council determines to be necessary or appropriate, together with any covenants regarding the maintenance, use or other treatment of such funds and accounts and the investment of the monies on deposit therein;

- (6) Authorization of the execution, delivery and performance by Metro of any contracts, agreements, certificates or instruments with third parties determined by Council to be necessary or appropriate in connection with the subject obligations, including but not limited to trust indentures, mortgages, deeds of trust, security agreements, bond purchase agreements and other agreements, including any and all agreements relating to a credit facility or financial enhancement product;
- (7) The manner in which the subject bonds shall be sold, which may include a public competitive sale, a private negotiated sale, a competitive negotiated sale, or any other method of sale that Council determines to be in the interests of Metro; and
- (8) Make such other covenants, agreements and provisions for protection and security of the owners of the subject obligations as are determined by Council to be necessary or appropriate, including but not limited to covenants, agreements and provisions regarding the issuance of additional obligations, the use and disposition of any property financed or mortgaged as security for the payment of the subject obligations, the maintenance of the federal, state or local tax-exempt status of the obligations or the interest thereon, and the priority of payment of the subject obligations in relationship to the payment of other obligations and pecuniary liability or undertakings of Metro.

Each authorizing action shall constitute a contract with and for the benefit of the owners of the bonds to which such authorizing action relates.

(c) Delegation of Authority. Notwithstanding anything expressed or implied in the Metro Code to the contrary, the Council, in an authorizing action, may delegate to any elected or appointed official or employee of Metro the authority to negotiate, determine and establish such terms, conditions and other matters with respect to the subject obligations and related transactions, instruments and agreements as Council shall specify in the authorizing action, including but not limited to the maturity dates, principal amounts, redemption provisions, interest rates or the method of determining any variable or adjustable interest rate, denominations, the price at which the obligations will be sold and other terms and conditions of the subject obligations and related instruments and agreements that are not appropriately determined at the time of adoption of the authorizing action or that Council deems it necessary or appropriate to so delegate. Any such delegated authority shall be exercised subject to the applicable requirements of law and such limitations and criteria as may be set forth in the authorizing action, and when so exercised shall be valid and binding on, and enforceable against, Metro to the same extent and with the same force and effect as would be the case if such authority had by directly exercised by Council in the authorizing action.

8.017.02.012 Terms of Obligations

(a) In General. Obligations authorized to be issued by the Metro Charter and Code may be in any form and contain any terms specified in or authorized under the related authorizing action, including but not limited to the following:

- (1) Interest rates that are fixed through maturity or that vary in accordance with an index or that are determined from time to time by an agent appointed for such purpose and in accordance with such criteria or standards as shall be set forth in or authorized under the related authorizing action;
- (2) Interest rates that are subject to adjustment or revision at such times or upon the occurrence of such events as shall be set forth in or authorized under the related authorizing action;
- (3) The payment of accrued interest on such dates as shall be specified in or authorized under the related authorizing action, or the deferral of payment of interest on a periodic basis prior to maturity, or for a period of time prior to maturity, through the use of financing vehicles such as deep discount obligations, zero coupon obligations, capital appreciation obligations and obligations which convert at a specified time or upon the occurrence of a specified event from capital appreciation obligations to current interest obligations which pay accrued interest on a periodic basis;
- (4) The redemption or prepayment provisions to be applicable to the subject obligations, which may include mandatory and optional redemptions or prepayments on such terms and conditions, at such times, and at such redemption or prepayment prices as shall be set forth in or authorized under the related authorizing action, with notice of any such redemption or prepayment to be given at such times, to such persons, in such form and through such media as shall be set forth in or authorized under the related authorizing action;
- (5) The terms upon which the subject obligation may be tendered by the owners for purchase for remarketing or retirement of the obligations;
- (6) The denominations in which the subject obligations will be issued and the form of such obligations, which may include bearer form with coupons attached, registered form and obligations subject to a book-entry system of ownership, registration and transfer that does not involve the physical delivery of certificates to the ultimate owners of such obligations; and
- (7) Principal payment schedules that specify the dates upon which installments of principal shall become due and payable either by virtue of the stated maturity thereof or the mandatory redemption or prepayment of such principal, including but not limited to principal payment schedules that provide for:

- (A) Substantially equal annual payments of principal and interest of either the subject obligations alone or the subject obligations in combination with other obligations;
- (B) The deferral of the payment of principal for a period of years as Council shall determine is necessary or appropriate;
- (C) No amortization of principal until final maturity; and
- (D) Amortization of principal in unequal annual installments.

(b) Maximum and Minimum Interest Rates; Sale Price. Obligations may bear interest at such maximum or minimum rates as shall be set forth in or authorized under the related authorizing action, which maximum or minimum rates may be expressed in terms of a percentage, the net interest cost, the true interest cost, the yield or any other method of expressing the time value of money or the cost of borrowing as Council may authorize. Obligations may be sold at such price as shall be set forth in or authorized under the related authorizing action.

(c) Use of Seal. If Metro has an official seal at the time any bonds are issued, it may cause such or a facsimile thereof to be impressed or imprinted on the bonds. However, the failure to imprint, impress or otherwise evidence any such seal on any bond shall not affect the validity thereof.

(d) Authorized Signatures. Bonds (other than certificates of participation) shall be executed on behalf of Metro by the signature or signatures of one or more elected or appointed officials or officers of Metro as specified in or authorized under the related authorizing action. Signatures of the designated officials or officers may be either manual signatures or facsimile signatures.

8.017.02.013 Investment of Funds

The proceeds derived from the issuance and sale of any obligations and any monies held in any funds or accounts established under any authorizing action in connection with any obligations may be invested in such investments as shall be specified in the related authorizing action without regard to any restrictions, limitations or regulations applicable to the investment of any other Metro funds pursuant to any other Metro ordinance, resolution, code provision or policy.

8.017.02.014 Manner of Sale

(a) Types of Sale Authorized; Procedures. Subject only to the applicable requirements and limitations of the Metro Code, bonds may be sold pursuant to such type of sale, in such manner and following such procedures as shall be set forth in or authorized under the related authorizing action. The type of bond sale may include a public competitive sale, a private negotiated sale, a competitive negotiated sale, or any other type or method of sale that Council determines to be in the interests of Metro.

(b) Public Competitive Sale. For bonds which are sold at public competitive sale, Metro shall prepare a notice of bond sale which shall include the following information to the extent that, in light of the nature of the subject bonds, such information is appropriate for inclusion in such notice of bond sale:

- (1) The time, date and place where bids will be received, and considered and acted upon, the total amount of bonds (which may be stated as an approximate amount subject to finalization upon the award of the bonds), and the denominations of the subject bonds;
- (2) The anticipated issue date, maturity dates and amounts, interest payment dates, and place of payment of the subject bonds;
- (3) The anticipated redemption provisions;
- (4) The maximum effective rate of interest and the minimum purchase price (which may be expressed as a percentage of par value of the bonds) which may be bid;
- (5) The required good faith deposit and the form such deposit must take, which may include certified check, cashier's check, fed funds check, surety bond, or other security arrangement satisfactory to Metro;
- (6) Such constraints on the interest rates as the issuer may impose;
- (7) The basis on which bond bids are to be evaluated for purpose of the award of the subject bonds, which may include a true interest cost method, a net interest cost method or any other appropriate method of evaluating and comparing the merits of the bids received; and
- (8) The name of Metro's bond counsel who will furnish the legal opinion with respect to the subject bonds and the name of Metro's financial advisor in connection with the issuance and sale of the subject bonds.

The notice of bond sale shall be published in such places and through such media as may be provided for or authorized in the related authorizing action, including but not limited posting in public places, publication in financial newspapers or other newspapers published and circulated within or without the State of Oregon, publication and distribution by means of electronic media such as television, radio, computer communication networks, telecopy, telefax, wire services or other such media, and publication and distribution by means of notices sent by United States mail or private carrier or delivery service. The notice of bond sale shall be published not less than five (5) days prior to the date upon which bids are to be received and the bonds awarded; provided that Metro may publish amendments or corrections to, or modifications of, any notice of bond sale (including any amendments, corrections or modifications which may be deemed to be material) at any time which is not less than four (4) hours prior to the time at which bids are to be received and the bonds awarded, which amendments, corrections or modifications may be published through any media which Metro determines is best calculated to reach in a timely manner the persons or firms likely to submit bids.

In all public competitive sales, Metro reserves the rights to:

- (A) ~~R~~reject any and all bids received for such reasons as Metro, in its sole and absolute discretion, determines to be sufficient;

- (B) Wwaive any and all requirements or irregularities;
- (C) Eextend the period of time by which bids must be received or otherwise postpone the time for the opening of bids and award of the bonds; and
- (D) Ffollowing the opening of the bids, negotiate the sale of the subject bonds with any person or firm regardless of whether such person or firm submitted a bid pursuant to and in accordance with the notice of bond sale.

(Ordinance No. 93-495, Sec. 2)

Exhibit C
Metro Charter 2003 Amendments to Metro Code

CHAPTER ~~2.06~~7.03

INVESTMENT POLICY**

SECTIONS	TITLE
2.06 7.03.010	Scope
2.06 7.03.020	Objectives
2.06 7.03.030	Responsibility
2.06 7.03.040	Prudence
2.06 7.03.050	Investment Diversification
2.06 7.03.060	Competitive Selection of Investment Instruments
2.06 7.03.065	Monitoring the Portfolio
2.06 7.03.070	Qualifying Institutions
2.06 7.03.090	Safekeeping and Collateralization
2.06 7.03.100	Indemnity Clause
2.06 7.03.110	Controls
2.06 7.03.120	Accounting Method
2.06 7.03.130	Reporting Requirements
2.06 7.03.140	Performance Evaluation
2.06 7.03.150	Policy Adoption
2.06 7.03.160	Policy Readoption

**Former Chapter 2.06 (readopted April 9, 1998; amended December 10, 1998; readopted April 15, 1999; readopted April 27, 2000; and readopted December 11, 2001).

2.067.03.010 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.

2.067.03.020 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.

2.067.03.030 Responsibility

(a) Investment Officer. The ~~executive officer~~ Chief Operating Officer is the investment officer of the ~~district~~ Metro. 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 (5) members.

- (1) Terms of Service. The term of service for citizens appointed to the IAB shall be three (3) calendar years. The term of appointment shall be staggered so that not more than two (2) 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.

2-067.03.040 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.

2-067.03.050 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 and Local Government Series (SLGS)	100%
(2)	Securities of U.S. Government Agencies and U.S. Government Sponsored Enterprises	100%
(3)	Certificates of Deposit (CD) Commercial Banks in Oregon insured by FDIC	100%
(4)	Repurchase Agreements (Repo's) Maximum 90-day maturity	50%

- | | | |
|-----|--|------|
| (5) | Banker's Acceptance (BA) | 100% |
| (6) | Commercial Paper (CP)
Issued by a financial institution, commercial,
industrial or utility business enterprise. | 35% |
| | For a corporation headquartered in Oregon; A-1
and P-1 only, maximum 90-day maturity; A-2
and P-2, A-1/P-2, or A-2/P-1 only, maximum
60-day maturity. | |
| | For a corporation headquartered outside
Oregon; A-1 and P-1 only; maximum 90-day
maturity. | |
| (7) | State of Oregon and Local Government
Securities with A ratings or better | 25% |
| (8) | State of Oregon Investment Pool | 100% |
| (9) | Market Interest Accounts and Checking
Accounts Minimum necessary for daily 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 2.067.03.050(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 (3) months

75% minimum to mature under 18 months

100% minimum to mature under five (5) years

(B) Investments may not exceed five (5) 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~~ Metro is permitted by state law to accumulate and hold funds for a period exceeding one (1) 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 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.

2.067.03.060 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.

2.067.03.065 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.

2.067.03.070 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.

2.067.03.090 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.

2.067.03.100 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.

2.067.03.110 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.

2.067.03.120 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).

2.067.03.130 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.

2.067.03.140 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.

2.067.03.150 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.

2.067.03.160 Policy Readoption

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

STAFF REPORT

IN CONSIDERATION OF

- ORDINANCE NO. 02-966 FOR THE PURPOSE OF AMENDING CHAPTER 2.04 METRO CONTRACT POLICIES, OF THE METRO CODE TO CONFORM TO THE METRO CHARTER AMENDMENTS ADOPTED ON NOVEMBER 7, 2000, AND DECLARING AN EMERGENCY
- ORDINANCE 02-974 FOR THE PURPOSE OF AMENDING TITLE V SOLID WASTE, OF THE METRO CODE (CHAPTER 5.01 THROUGH CHAPTER .09), TO CONFORM TO THE METRO CHARTER AMENDMENTS ADOPTED ON NOVEMBER 7, 2000, AND DECLARING AN EMERGENCY
- ORDINANCE 02-976, FOR THE PURPOSE OF AMENDING TITLE VII EXCISE TAXES, TITLE VIII FINANCING POWERS AND CHAPTER 2.06 INVESTMENT POLICIES OF THE METRO CODE, TO CONFORM TO THE METRO CHARTER AMENDMENTS ADOPTED ON NOVEMBER 7, 2000, AND DECLARING AN EMERGENCY

Date: October 29, 2002

Prepared by: John Houser

BACKGROUND

As a result of the passage by the voters of Ballot Measure 26-10 on November 7, 2000, various changes to Metro's existing code are in order to conform to the approved amendments to Metro's charter. The changes proposed in these ordinances to primarily remove references to the Executive Officer and Presiding Officer, whose offices will be abolished effective January 6, 2003; and create references to the Council President and the Chief Operating Officer, consistent with code amendments adopted by Council earlier this year (see "Legal Antecedents" below), along with minor grammatical and formatting corrections. The proposed ordinances make changes to the following code sections:

- Chapter 2.04 (Metro Contract Policies) and Chapter 2.06 (Investment Policy)
- Title V Solid Waste(Chapters 5.01 through 5.09)
- Title IV Excise Taxes (Chapter 7.01)
- Title VIII Financing Powers (Chapter 8.01)

ANALYSIS/INFORMATION

1. **Known Opposition** None
2. **Legal Antecedents** Resolution 00-2929A "For the Purpose of Submitting to the Voters an Amendment to the Metro Charter Abolishing the Office of Executive Officer, Creating the Office of Council President, and Making Related Changes"; Ordinance 02-942A "For the Purpose of Adding a New Chapter 2.20 to the Metro Code Creating the Office of Chief Operating Officer"; Ordinance 02-953A "For the Purpose of Creating the Office of Metro Attorney"; Ordinance 02-954A "For the Purpose of Reflecting the Creation of the Office of Metro Council President"; and Ordinance 02-

955A "For the Purpose of Amending Chapter 2.19 of the Metro Code to Conform to Charter Amendments Adopted on November 7, 2000".

3. **Anticipated Effects** These ordinances will amend Chapters 2.04, 2.06, 5.01 through 5.09, 7.01, and 8.01 of the Metro Code to conform to approved Charter amendments.
4. **Budget Impacts** None

RECOMMENDED ACTION

That Council approve adoption of Ordinances 02-966, 02-974 and 02-976.