BEFORE THE METRO COUNCIL

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|---|---|---|
| A RESOLUTION OF METRO, OREGON, AUTHORIZING A LIMITED TAX PENSION BOND, SERIES 2005 TO SATISFY METRO'S UNFUNDED OREGON PUBLIC EMPLOYEE RETIREMENT SYSTEM ACTUARIAL LIABILITY | )<br>)<br>)<br>)<br>)<br>)<br>) | RESOLUTION NO. 05-3598<br><br>Introduced by Michael Jordan, Chief Operating Officer with the concurrence of the Council President Bragdon |

WHEREAS, Metro is authorized by ORS 238.692 to 238.698 (the "Act") to issue limited tax bonds as defined in ORS 288.150 to finance its pension liability; and,

WHEREAS, the Act and ORS 288.150 permit Metro to pledge its full faith and credit and taxing power within the limitations of Sections 11 and 11b of Article XI of the Oregon Constitution to pay those bonds; and,

WHEREAS, Section 2 of ORS 238.694 of the Act provides "Notwithstanding any limitation on indebtedness or borrowing under state or local law, for the purpose of obtaining funds to pay the pension liability of a governmental unit, the governing body of a governmental unit may authorize and cause the issuance of limited tax bonds as defined in ORS 288.150…" and the Act therefore supersedes any state or local debt limitations of Metro; and,

WHEREAS, Metro has an unfunded pension liability to the Oregon Public Employees Retirement System ("OPERS") which was estimated to be $18,461,566 as of December 31, 2003; and,

WHEREAS, OPERS currently requires Metro to pay this unfunded liability over a period of years with interest at eight percent per annum; and,

WHEREAS, current interest rates in the bond market create the opportunity for Metro to finance its unfunded pension liability and potentially reduce its costs; and,

WHEREAS, a pooled pension bond program ("Program") may reduce costs for participating governments; and,

WHEREAS, the Program does not require Metro to pay any portion of another government's pension bonds or liabilities to OPERS; now therefore,

THE METRO COUNCIL RESOLVES:

**Section 1. Definitions.**

Unless the context clearly requires otherwise, the following terms shall have the following meanings:

"Additional Charges" means the fees and other charges of the Program Trustee, as defined in the Program Trust Agreement and any indemnity payments due under Section 6(3) of this Resolution.

"Available General Funds" means: (i) all Metro's ad valorem property tax revenues received from levies under its permanent rate limit; and (ii) all other unrestricted taxes, fees, charges, revenues and receipts of Metro which Oregon law allows to be spent to make the Bond Payments.

"Bond Payments" means the principal and interest payments due under the Bond.

"Bond" means Metro's Limited Tax Pension Bond, Series 2005, that is authorized by Section 2 of this Resolution.

"Business Day" means any day except a Saturday, a Sunday, a legal holiday, a day on which the offices of banks in Oregon or New York are authorized or required by law or executive order to remain closed, or a day on which the New York Stock Exchange or the Program Trustee is closed.

"Metro Official" means the Chief Operating Officer or the Chief Financial Officer of Metro, or the person designated by the Chief Operating Officer or the Chief Financial Officer to act as Metro Official under this Resolution.

"Metro" means Metro, Oregon.

"Event of Default" refers to an Event of Default listed in Section 8(1) of this Resolution.

"Government Obligations" means direct noncallable obligations of the United States, or obligations the principal of and interest on which are fully and unconditionally guaranteed by the United States, or any other security which the Program Trust Agreement allows to be used as a defeasance obligation.

"Payment Date" means a date on which Bond principal or interest is due, whether at maturity or prior redemption.

"Program" means the pooled pension bond program implemented through the Program Trust Agreement.

"Program Obligations" means the obligations issued by the Program Trustee under the Program Trust Agreement which are payable from the Bond Payments and similar pension bond payments made by other participants in the pension bond program.

"Program Trust Agreement" means the Trust Agreement between the Program Trustee, Metro and other issuers of pension bonds which are sold to the Program Trustee, in which the Program Trustee agrees to hold the Bond and to distribute the Bond Payments to the owners of Program Obligations.

"Program Trustee" means Wells Fargo Bank, National Association, as trustee under the Program Trust Agreement, or its successors.

"Resolution" means this Resolution, including any amendments made in accordance with Section 7 of this Resolution.

"Security Payments" means the payments Metro is required to make on the 15$^{th}$ day of the month which precedes each Payment Date. The Security Payments are equal to the amount required to be paid on that Payment Date.

**Section 2. Bond Authorized.**

(1) Metro hereby authorizes the issuance, sale and delivery of its Limited Tax Pension Bond, Series 2005, in accordance with this Resolution and in an amount which is sufficient to produce net proceeds which do not exceed the most recent estimate of Metro's unfunded pension liability to OPERS which Metro receives from OPERS prior to selling the Bond, plus the costs of issuing and selling the Bond, obtaining credit enhancement, paying Metro's share of any costs of the

Program Trustee and any other costs of participating in the Program, and paying any interest on the Bond subject to Section 2(3) herein.

(2) The issuance of the Bond and the participation in the Program shall not obligate Metro to pay any portion of another government's pension bonds or liabilities to OPERS.

(3) Bond proceeds shall be used to pay Metro's unfunded pension liability to OPERS, to pay interest on the Bond for a period not to exceed three years and to pay costs of issuing and selling the Bond, including any costs of the Program Trustee and credit enhancement.

(4) The Bond shall be a "federally taxable bond" which bears interest that is not excludable from gross income under Section 103(a) of the Internal Revenue Code of 1986, as amended. Interest shall, however, be exempt from Oregon personal income taxation.

(5) OPERS currently requires Metro to pay this unfunded liability over a period of years. OPERS charges Metro eight percent per annum because OPERS expects, over the long term, to earn eight percent on its investments. Refinancing that liability at a lower rate of interest should, therefore, reduce costs for Metro. To ensure that the rate of interest on the Bond will be less than the rate of interest which OPERS expects to earn, the Bond shall not be sold at a true interest cost of more than 6.50% per annum.

**Section 3. Delegation**.

If the Metro Official determines that Metro shall issue the Bond, the Metro Official is hereby directed, on behalf of Metro and without further action by the Metro Council, to:

(1) Participate in the preparation of, authorize the distribution of, and deem final any official statement or other disclosure documents relating to the Bond or the Program Obligations.

(2) Establish the final principal amounts, maturity schedules, interest rates, sale prices and discount, redemption terms, payment terms and dates, Security Payment terms, and other terms of the Bond.

(3) Negotiate the terms of, and enter into a bond purchase agreement, which provides for the acquisition of the Bond by the Program Trustee.

(4) Approve and execute and deliver an intergovernmental agreement and the Program Trust Agreement, or an intergovernmental agreement which is combined with the Program Trust Agreement, which directs the Program Trustee to issue the Program Obligations and provides for the administration of funds held by the Program Trustee, and any other agreements or documents which may be required for participation in the Program. However, delivery of the Bond to the Program Trustee shall constitute execution of the Program Trust Agreement by Metro, and Metro shall be bound by the Program Trust Agreement upon delivery of the Bond to the Program Trustee.

(5) Undertake to provide continuing disclosure for the Bond in accordance with Rule 15c2-12 of the United States Securities and Exchange Commission.

(6) Apply for ratings on the Bond or the Program Obligations and purchase municipal bond insurance or obtain other forms of credit enhancements for the Bond or the Program Obligations,

enter into agreements with the providers of credit enhancement, and execute and deliver related documents.

(7) Execute and deliver the Bond to the Program Trustee.

(8) Negotiate the terms of, and enter into guaranteed investment contracts or other agreements for the investment of capitalized interest, if any.

(9) Execute and deliver any agreements or certificates and take any other action in connection with the Bond which the Metro Official finds is desirable to permit the sale and issuance of the Bond in accordance with this Resolution.

**Section 4. Security for Bond.**

(1) Metro hereby pledges its full faith and credit and taxing power within the limitations of Sections 11 and 11b of Article XI of the Oregon Constitution to pay the Bond. The Bond shall be a limited tax bond of Metro as defined in ORS 288.150, and Metro shall pay the Bond from its Available General Funds. Metro is not authorized to levy additional taxes to pay the Bond.

(2) To secure the payment of the Bond, Metro shall make the Security Payments as provided in the Bond. The Security Payments shall be applied to make Bond Payments.

(3) This Resolution shall constitute a contract with the Trustee, and the owners of the Program Obligations shall be third-party beneficiaries of this contract.

**Section 5. Redemption**.

The principal component of Bond Payments shall be subject to redemption on the dates and at the prices established by the Metro Official pursuant to Section 3(2) and in accordance with the Program Trust Agreement.

**Section 6. Covenants**.

Metro hereby covenants and agrees with the owner of the Bond as follows:

(1) Metro shall promptly cause Security Payments and the principal, premium, if any, and interest on the Bond to be paid as they become due in accordance with the provisions of this Resolution and the Bond.

(2) Metro covenants for the benefit of the Program Trustee to pay the Additional Charges reasonably allocated to it by the Program Trustee, in accordance with the invoices for such Additional Charges which are provided by the Program Trustee pursuant to the Program Trust Agreement.

(3) To the extent permitted by law, Metro covenants and agrees to indemnify and save the Program Trustee harmless against any loss, expense or liability which is reasonably allocable to Metro and which the Program Trustee may incur arising out of or in the exercise or performance of its duties and powers under the Program Trust Agreement relating to the Bond, including the costs and expenses of defending against any claim or liability, or enforcing any of the rights or remedies granted to it under the terms of the Program Trust Agreement in connection with the Bond, excluding any losses or expenses which are due to the Trustee's breach of fiduciary duties, negligence or willful misconduct. The obligations of Metro under this Section 6(3) shall survive

the resignation or removal of the Program Trustee under the Program Trust Agreement and the payment of the Program Obligations and discharge under the Program Trust Agreement. The damages claimed against Metro shall not exceed the damages which may be allowed under the Oregon Tort Claims Act, Oregon Revised Statutes Section 30.260, et seq., unless the provisions and limitations of such act are preempted by federal law, including, but not limited to the federal securities laws.

**Section 7. Amendment of Resolution**.

Metro may amend this Resolution only in accordance with the Program Trust Agreement.

**Section 8. Default and Remedies.**

(1) The occurrence of one or more of the following shall constitute an Event of Default under this Resolution:

(A) Failure by Metro to pay Bond principal, interest or premium when due (whether at maturity, or upon redemption after principal components of Bond Payments have been properly called for redemption);

(B) Failure by Metro to make any Security Payment within five Business Days after it is due;

(C) Failure by Metro to observe and perform any covenant, condition or agreement which this Resolution requires Metro to observe or perform for the benefit of the Program Trustee, other than as set forth in Section 8(1)(A) or 8(1)(B), which failure continues for a period of 60 days after written notice to Metro by the Program Trustee specifying such failure and requesting that it be remedied; provided however, that if the failure stated in the notice cannot be corrected within such 60 day period, it shall not constitute an Event of Default so long as corrective action is instituted by Metro within the 60 day period and diligently pursued, and the default is corrected as promptly as practicable after the written notice referred to in this Section 8(1)(C); or,

(D) Metro is adjudged insolvent by a court of competent jurisdiction, admits in writing its inability to pay its debts generally as they become due, files a petition in bankruptcy, or consents to the appointment of a receiver for the installment payments.

(2) The Program Trustee may waive any Event of Default and its consequences, except an Event of Default described in Section 8(1)(A).

(3) If an Event of Default occurs and is continuing the Program Trustee may exercise any remedy available at law or in equity; however, the Bond Payments shall not be subject to acceleration.

(4) No remedy in this Resolution conferred upon or reserved to the Program Trustee is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Resolution or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. To entitle the Program Trustee to exercise any remedy reserved to it, it shall not be necessary to give any notice other than such notice as may be required by this Resolution or by law.

**Section 9. Defeasance.**

Metro may defease all or any portion of the Bond Payments in accordance with the Program Trust Agreement.

**Section 10. Form.**

The Bond shall be issued as a single installment bond in substantially the form attached hereto as Exhibit A, with such changes as may be approved by the Metro Official. The Bond shall be executed on behalf of Metro with the manual signature of the Metro Official.

**Section 11. Rules of Construction.**

In determining the meaning of provisions of this Resolution, the following rules shall apply unless the context clearly requires application of a different meaning:

(1) References to section numbers shall be construed as references to sections of this Resolution.

(2) References to one gender shall include all genders.

(3) References to the singular shall include the plural, and references to the plural shall include the singular.

**Section 12. Effective Date.**

This resolution shall take effect on the date of its adoption by the Metro Council.

ADOPTED by the Metro Council this 21st day of July, 2005.

David Bragdon, Council President

APPROVED AS TO FORM:

Daniel B. Cooper, Metro Attorney

GODKÄND APPROVED METRO COUNCIL HUVUDSTADS RÅD METRO COUNCIL

**Resolution No. 05-3598**

**Exhibit A**

Form of Bond

No. R-«BondNumber» $«PrincipalAmtNumber»

United States of America
State of Oregon
Counties of Multnomah, Washington, and Clackamas
**Metro**
Limited Tax Pension Bond
Series 2005

**Dated Date**: _____
**Registered Owner**: ----WELLS FARGO BANK, NATIONAL ASSOCIATION, as Trustee----
**Principal Amount**: ----$«PrincipalAmtSpelled» Dollars----

Metro, Oregon (the "Metro"), for value received, acknowledges itself indebted and hereby promises to pay to the registered owner, which is WELLS FARGO BANK, NATIONAL ASSOCIATION, as Trustee (the "Program Trustee") under the Trust Agreement among the Program Trustee and the issuers of pension bonds which is dated as of ___, 2005 (the "Program Trust Agreement"), the Principal Amount indicated above, in installments as provided in Exhibits A and B attached hereto, together with interest thereon as provided below, computed on the basis of a 360-day year of twelve 30-day months.

To provide additional security, Metro covenants to make payments (the "Security Payments") to the Program Trustee on the dates and in the amounts shown in Exhibit C attached hereto.

Each Security Payment shall be credited against the Bond principal and interest payment which is due on the first day following that Security Payment.

This Bond is Metro's Limited Tax Pension Bond, Series 2005 (the "Bond"). This Bond is issued for the purpose of financing Metro's pension liability to the Oregon Public Employees Retirement System. This Bond is authorized and issued under Metro Resolution No. __ (the "Resolution") and ORS 238.692 to 238.698 and ORS 288.150, in full and strict accordance and compliance with all of the provisions of the Constitution and Statutes of the State of Oregon and the Metro Charter. Capitalized terms used in this Bond have the meanings defined for such terms in the Resolution.

This Bond is issued in conjunction with and subject to the terms and conditions of the Program Trust Agreement. Metro's obligations under this Bond, the Program Trust Agreement and the Program are limited to paying the principal, interest and any premium on this Bond by making the Security Payments, and to paying the Additional Charges. The issuance of this Bond and the participation by Metro in the Program shall not obligate Metro to pay any portion of another government's pension bonds or liabilities to OPERS.

This Bond is a legal, valid and binding limited tax bond of Metro which is enforceable against Metro in accordance with its terms. Metro's full faith and credit and taxing power within the limitations of Sections 11 and 11b of Article XI of the Oregon Constitution are pledged for the punctual payment of the principal of and interest on this Bond. Metro has covenanted to pay this Bond from its "Available General Funds" as defined in the Resolution. Metro is not authorized to levy any additional taxes to pay this Bond. This Bond does not constitute a debt or indebtedness of Multnomah, Washington, or Clackamas Counties, the State of Oregon, or any political subdivision thereof other than Metro.

The principal components of the Bond Payments are subject to redemption [insert redemption provisions].

[insert redemption procedure]

The Bond may not be transferred to any person other than a successor Program Trustee.

IT IS HEREBY CERTIFIED, RECITED, AND DECLARED that all conditions, acts, and things required to exist, to happen, and to be performed precedent to and in the issuance of this Bond have existed, have happened, and have been performed in due time, form, and manner as required by the Constitution and Statutes of the State of Oregon and the Metro Charter, and that the issue of which this Bond is a part, and all other obligations of Metro, are within every debt limitation and other limit prescribed by such Constitution and Statutes and Metro Charter.

IN WITNESS WHEREOF, the Metro Council, by Resolution duly passed, has caused this Bond to be signed by the manual signature of its Metro Official, all as of the date first above written.

**Metro, Oregon**

____________________________________
Metro Official

**STAFF REPORT**

IN CONSIDERATION OF RESOLUTION NO. 05-3598, FOR THE PURPOSE OF AUTHORIZING A LIMITED TAX PENSION BOND, SERIES 2005 TO SATISFY METRO'S UNFUNDED OREGON PUBLIC EMPLOYEE RETIREMENT SYSTEM ACTUARIAL LIABILITY

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Date: July 21, 2005

Prepared by: Bill Stringer
Kathy Rutkowski
Brian Williams

**BACKGROUND**

Despite recent legislative reforms and positive market performance, the Oregon Public Employee Retirement System (OPERS) continues to be significantly underfunded. Prior to legislative action the OPERS actuary had estimated that the total unfunded liability of the fund was approximately $17 billion. The reforms, even if they withstood court challenge, would not have eliminated the liability, and losses are still estimated to be $8.5 billion (about half of the original amount) after 2002's investment losses are taken into account. As a result, every jurisdiction has seen its OPERS payroll rate increase beginning July 1, 2005 to cover these shortfalls.

Under a pension plan the actuarial liability is the present value of the plan's current and expected benefits payments (plus administrative expenses). If a fund's actuarial liability exceeds its current assets, then the fund has a shortfall that is known as an unfunded actuarial liability ("UAL"). This shortfall is the difference between what the fund has "in the bank" right now and what it expects to pay in current and future benefits. In other words, the UAL is the shortfall the fund would face if its assets were liquidated and the present value of the benefits was paid today.

Several factors contributed to this systemic OPERS problem:

- The increase in benefits provided in 1995 to offset taxation due to lawsuit by federal retirees
- Money Match and unequal earnings rates paid to employers and employees.
- 8% rate paid to Tier 1 employees when fund was losing money.
- More than 8% rate paid to Tier 1 employees during late 1990s.
- Inadequate reserves retained to cover Tier 1 distributions.
- Outdated mortality tables.

The Legislature made substantial changes to avoid catastrophic financial consequences:

- 8% guarantee provided over career, not annually
- 6% employee contribution deposited in 401(k)-type account, not subject to money match
- Mortality tables updated
- OPERS board completely revamped
- New system (OPSRP) created for employees hired after August 29, 2003.

In making these changes the Oregon Legislature was hugely successful in reducing the size of the UAL. We know now, however, that the State courts have indicated than the first two items overstepped the authority of the Legislature for some of its members: modifying the money match program going forward and changing the 8% guarantee to a career guarantee, rather than an annual one. The final outcome of the challenges is still unclear, however, and the actuarial impact upon rates for Metro's pool has not even been estimated. Indications are that it will be 8 to 18 months before court action is finalized and rates will be adjusted to account for the Courts' findings.

Even without taking into account any adverse impacts of the court challenges, OPERS costs to Metro are rising rapidly. Last year Metro paid 7.14% of salaries and wages to OPERS. That rate (based upon the 2003 valuation, which incorporated losses experienced in 2002) increased 4.66 percentage points on July 1, 2005 to 11.80 percent of salaries and wages. In two years, unless unforeseen earnings or losses intervene, it will increase another 4.66 percentage points to 16.46 percent of salaries and wages. <u>These increases are caused only by poor earnings accruing to the OPERS investment portfolio and policy choices that had adverse impacts on payout and earnings and do not relate to adverse court rulings regarding the 2003 Legislative Reforms.</u>

Every jurisdiction pays a different percentage of their payroll to cover OPERS-related costs. The rate paid depends in part on whether the jurisdiction participates (or participated at one time) in one of several actuarial "pools", or whether it is treated as a single, independent employer. To reduce volatility of earnings and losses, Metro chose in 1999 to join a pool within OPERS that included Multnomah County and the City of Portland. When Metro joined the pool it entered with a $7.1 million actuarial surplus as seem in the table below. However, significant losses were incurred in Metro's portion of the OPERS portfolio in 2000, 2001, 2002 and 2003. The losses are shown in the following table:

**METRO'S OUTSTANDING UAL BALANCE**

| | |
|---|---|
| Remaining 1999 UAL | $ (7,036,321) |
| Remaining 2000 Loss | 3,171,354 |
| Remaining 2001 Loss | 26,452,706 |
| Remaining 2002 Loss | 39,182,032 |
| Remaining 2003 Loss | 7,947,053 |
| 2003 OPERS Reform Legislation | (51,640,261) |
| UAL as of 12/31/2003 | $ 18,076,563 |

<u>Additional losses have occurred since and are expected to occur over the next several months such that the unfunded actuarial liability by the end of October of 2005 is expected to be $23,935,891.</u>

Note, that the OPERS actuary has credited savings equal to $51,640,563 attributable to the package of reforms passed by the Oregon Legislature in 2003. We know that the State court has <u>not</u> upheld some of those reforms and another court is deciding a case in Eugene (the Lipscomb case). It is not know at this time what the impact might be on the UAL by these decisions—losing all or part of the $51.6 million savings.

Ultimately, the actuary bases a rate upon a complex calculation involving current and past statistics and future projections of Metro's

- Total payroll,
- Earnings within the pool,
- Demographics--including the age and seniority of Metro employees and the number of retiree and potential retirees in Tier 1 and Tier 2, and
- The Unfunded Actuarial Liability.

For jurisdictions with an unfunded actuarial liability ("UAL"), embedded within the total payroll rate is a portion dedicated to repayment of that shortfall, calculated at 8% interest. Thus, OPERS currently requires Metro make payments that would eliminate its unfunded liability over a period of approximately 23 years and charges Metro eight percent per annum on the unfunded balance because OPERS expects, over the long term, to earn eight percent on its investments. Thus, there is little that Metro can do to moderate the increase other than reduce payroll or reduce the UAL. It has, however, taken one action and by this resolution is contemplating another:

- *First, Metro has chosen to set aside 6.5 percent of payroll against future increases due to adverse court findings.* It currently has about $5 million of reserves set aside for this purpose and will add another $2.4 million by the end of FY 2005-06. The stated purpose of the reserve at the time it was created was to use if and when rates were increased due solely to adverse court findings—not to offset the unfunded actuarial liability of the fund which was assumed would be funded by increased rates over the next 23 years.

    - Note, however that last year those funds earned about 1.8% for the fiscal year and are currently earning only 2.8% per annum in Metro's investment accounts.
    - OPERS is expected to reduce the payroll rate approximately 4.1 percentage points if the UAL is eliminated.
    - Because OPERS charges 8% per annum on the UAL, the benefit of bonding only $18 million and using the $5 million reserve is tantamount to investing the $5 million at 8% per annum rather than the current 2.9%. However, the 2.9% could rise over the next few years, however, while the 8% will not.
    - Whereas Metro as a whole would benefit from the reduced rates, each Department within Metro has contributed to the Reserve over the last two fiscal years. [see attachment 1]

- Second, under current bond market conditions, Metro could finance its portion of the liability at approximately 6% instead of the 8% charged by OPERS (a taxable rate – under federal law, these must be sold on a taxable basis) through the bond market, potentially minimizing some of the future cost increases.

    - In order to achieve savings the funds deposited with OPERS must earn more than the cost of the borrowing over its life. If the funds earn more than the cost of the borrowing, a jurisdiction that chooses to refinance will have lower OPERS costs than a jurisdiction that does not make that choice.
    - Assuming the actuary's expected return assumption of 8% proves accurate, the savings to a jurisdiction at a 6% borrowing rate equal approximately 20% on a present value basis of the amount borrowed. Other earnings rates and borrowing rates were examined. [see Appendix 2]
    - Since 1970, OPERS investments have averaged roughly 12% returns.
    - Barring any extraordinary payouts by the OPERS Commission, any earnings over 8% by the fund could be used to reduce Metro's current liability. Nevertheless, if such an offset

did occur, the contributed revenue from the sale of Bonds now would reduce OPERS rates throughout the 23-year actuarial cycle. The jurisdiction that borrows "too much" would be in a surplus position, with payroll rates reduced still further by the surplus amount available.

- If any level of bonding is selected, to ensure that the rate of interest on the Bonds will be less than the rate of interest that OPERS currently expects to earn, and given that there is a cost of issuance equal to about $360,000 (1.5% of the total bond size) the Bonds should not be sold if the true interest cost (TIC) would be more than 6.50% per annum.
- Success from borrowing depends on the return on OPERS investments exceeding the rate on the bond.
    - If returns equal 8% over 23-year period (as assumed by OPERS) over the life of the bonds, costs will be reduced as estimated.
    - If returns are greater than 8%, cost reductions will be greater than projected.
    - If returns are less than 8% but more than the cost of borrowing OPERS cost reductions will be less than projected.
    - If returns are less than the bond yield, borrowers will be worse off than those who do not borrow. [see Appendix 3]
    - NOTE: Whereas the tax-exempt market consistently expects and frequently exercises call provisions within its bond covenants, the taxable market seldom has such provisions and, if they do, only at substantial cost.

Payroll rate reductions are immediate upon payment to OPERS. If a jurisdiction sends funds to OPERS on September 22, 2005, rates will be adjusted downward immediately as of October 1, 2005. How much Metro's rates will be adjusted depends upon the specific demographic variables affecting Metro. However, OPERS will provide that information in advance for a fee of $1,000.

The annual debt service costs will simply replace a portion of the existing payment you make to OPERS. Be aware, however, that the actuary projects the dollar costs of OPERS to rise as payrolls rise. Debt service that is structured to match the OPERS amortization structure will therefore increase over time as well, although hopefully by a lesser amount.

Risks of bonding / not bonding thus hinge on three unknown factors:

- What will happen to earnings of the OPERS fund (specifically, Metro's pool) over the next 23 years and how might those earnings be used to offset Metro's current UAL? [see Appendix 3]
- What might happen to the return on Metro's reserve over the next 23 years? [see Appendix 4]
- What will be the impact of judicial decisions regarding the 2003 Legislative reforms?

***Key dates:***

| | |
|---|---|
| JULY 21 | IF COUNCIL AGREES, PASSING A RESOLUTION AUTHORIZING (BUT NOT REQUIRING) THE SALE OF BONDS PLEDGING METRO'S GENERAL FUND TO SERVICE THE BONDS. |
| July 22 | Request a "payoff" letter from OPERS indicating the exact amount of the liability and the impact of paying off the UAL |
| August | Preparation of materials for Metro's portion of the Official Statement |

| | |
|---|---|
| September 1 | File a supplemental budget to account for the Funding of the Unfunded Actuarial Liability with the Council Office |
| September 6 | Final Opt-out Date for Bond Pool |
| September 13 | First Reading of the Supplemental Budget |
| September 13 | Bond Pricing |
| Week of September 19 | TSCC hearing regarding the Supplemental Budget |
| September 29 | Bond Closing |
| September 30 | Payment to OPERS |
| October 1 | Reduced OPERS Rates take effect |

## ANALYSIS/INFORMATION

1. **Known Opposition** None that is known.

2. **Legal Antecedents** Sections 11 and 11b of Article XI of the Oregon Constitution and ORS 288.150

3. **Anticipated Effects** The resolution would authorize staff to issue a taxable bond pledging Metro's General Fund in repayment. The proceeds would be used to payoff the existing OPERS Unfunded Actuarial Liability in the amount of approximately $23,935,891 in order to reduce the rate charged by OPERS to Metro about 4.0 percentage points (an impact that will be verified with the OPERS actuary). Total savings over the 23-year life of the bond would be about $4,473,214 depending upon the rate of interest at which the bonds are sold. The rate is expected to be about 6% per annum. A rate above 6.5% would reduce savings to the extent that sale of the Bonds on about September 29th would not be sold. Metro may chose to finance a portion of the repayment itself with amounts currently set aside in its OPERS Reserve Fund which currently amounts to about $4.9 million.

4. **Budget Impacts** Payment of the unfunded actuarial liability would reduce the percentage of payroll that is required at present to be paid to OPERS. Any amount of OPERS Reserve Fund used to augment the bonded amount would remove from Metro's accounts the amount accruing in Metro's Pooled Investment Fund to that amount but would reduce both the size of the bond and the current OPERS rate.

## RECOMMENDED ACTION

Staff recommends that:

- It be authorized to seek from OPERS an exact accounting of Metro's UAL and the rate reduction that would immediately follow the payment of that amount.

- It be authorized to continue to explore trends and factors that might argue for/against moving forward with a bond sale on or about September 21, 2005. Because of the nature of the Taxable Bond market, a larger bond size is necessary to procure optimal bids for bonds, probably requiring a pool of other entities seeking to bond their UAL. A pool offered by Seattle Northwest Securities for pricing on or about September 13, 2005 is the only such pool currently being assembled and is the only firm that has assembled such pools in Oregon. We would propose to negotiate with that underwriter.

- Staff explore the options and consequences of continuing the 6.5 percent of payroll reserve to mitigate future increases.

- Council approve Resolution 05-3598 which permits the sale of bonds to fully fund the unfunded portion of Metro's Actuarial Liability.

ATTACHMENT 1
Resolution No. 05-3598

## Components of PERS Reserve

***By Fund & Department (Consolidated Fund Structure)***

| | FY 2003-04 Actual | FY 2004-05 Actual | 2-YEAR RESERVE TOTAL |
|---|---|---|---|
| **General Fund** | | | |
| Auditor | $21,268 | $16,848 | $38,116 |
| Council | $47,070 | $55,277 | $102,347 |
| Finance & Admin. Services (1) | $206,985 | $209,596 | $416,581 |
| Human Resources | $35,369 | $37,273 | $72,642 |
| Metro Attorney | $45,741 | $49,009 | $94,750 |
| Oregon Zoo | $549,553 | $553,741 | $1,103,294 |
| Planning | $327,906 | $331,272 | $659,178 |
| Public Affairs (2) | $37,990 | $50,236 | $88,226 |
| Regional Parks (3) | $139,309 | $155,331 | $294,640 |
| *Subtotal General Fund* | *$1,411,191* | *$1,458,583* | *$2,869,774* |
| **MERC Operating Fund** | | | |
| Administration | $36,628 | $40,154 | $76,782 |
| Expo Center | $54,696 | $54,433 | $109,129 |
| Oregon Convention Center | $314,787 | $316,034 | $630,821 |
| PCPA | $181,532 | $182,059 | $363,591 |
| *Subtotal MERC Operating Fund* | *$587,643* | *$592,680* | *$1,180,323* |
| **Solid Waste Revenue Fund** | $394,462 | $399,242 | $793,704 |
| **Open Spaces Fund** | $25,491 | $25,896 | $51,387 |
| **Risk Management Fund** | $19,782 | $5,997 | $25,779 |
| **MERC Pooled Capital Fund** | $15,830 | $19,291 | $35,121 |
| **Zoo Capital Fund** | $3,098 | $2,985 | $6,083 |
| *Subtotal All Other Funds* | *$458,663* | *$453,411* | *$912,074* |
| **TOTAL PERS RESERVE** | **$2,457,497** | **$2,504,674** | **$4,962,171** |

***NOTES:***

(1) Includes Building Management Fund as well as Support Services Fund

(2) Includes General Fund & Support Services Fund portions of Public Affairs

(3) Smith & Bybee Lakes Fund portion to be paid from Regional Parks Operations

# ATTACHMENT 2
# Resolution 05-3598
# PERS Bonding Liability Discussion
# *Council Work Session July 12, 2005*

## *A. Refinancing analysis at various interest rates*

Assumptions:
- bonding full estimated outstanding liability of approximately $23.935 million
- lump sum deposit earns 8%

| Scenario | Total Savings | Net Present Value Savings |
|---|---|---|
| 5.50% TIC | $9,947,067 | $5,946,231 |
| 6.00% TIC | $7,562,982 | $4,473,214 |
| 6.50% TIC | $5,067,201 | $3,065,757 |

## *B. Reinvestment analysis at various rates of return*

Assumptions:
- bonding full estimated outstanding liability of approximately $23.935 million
- 6.00 % TIC borrowing cost

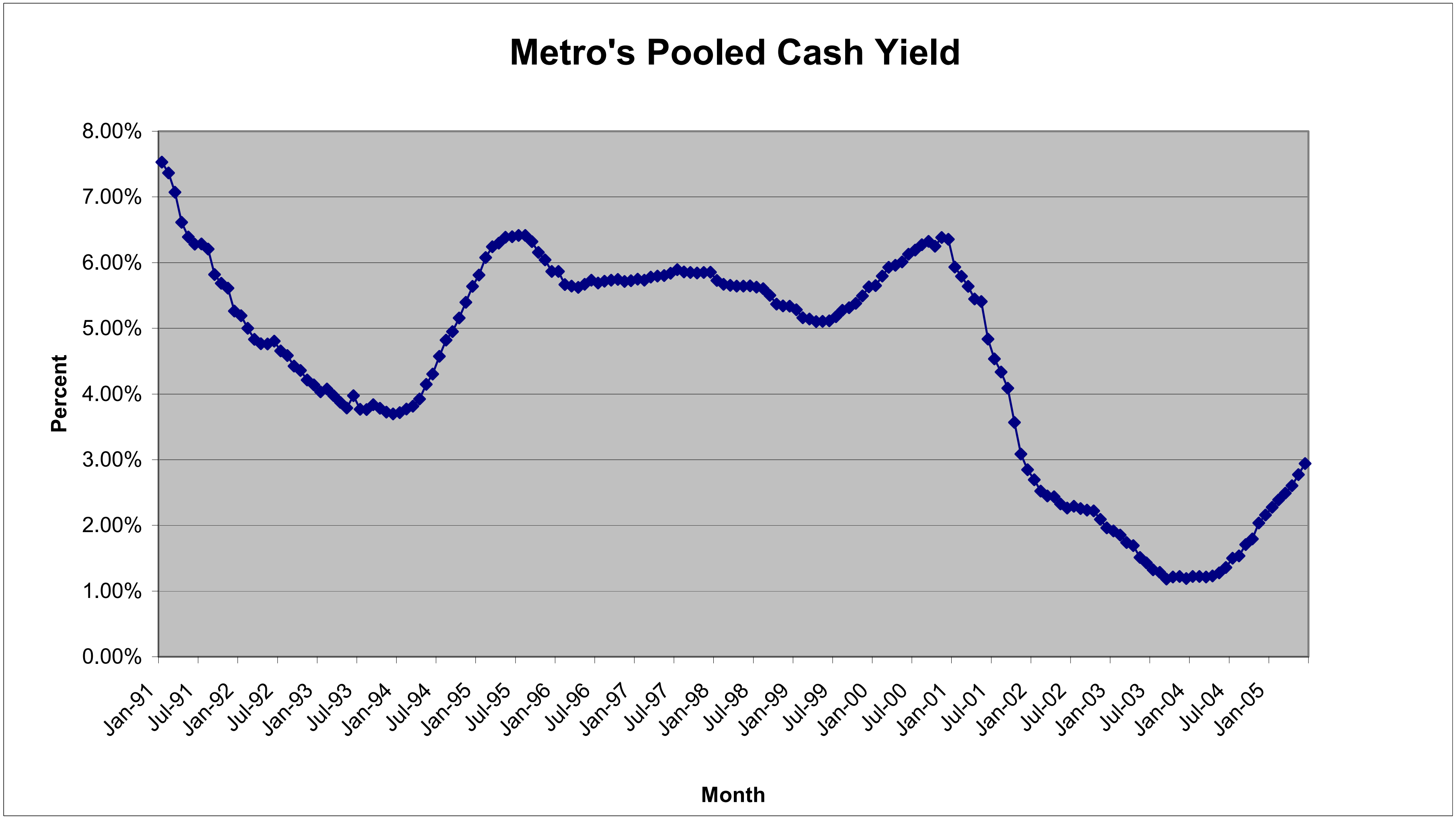
| Reinvestment Scenario | Total Earnings | Net Present Value Earnings |
|---|---|---|
| 12.00% | $48,331,450 | $19,180,462 |
| 8.00% | $7,562,982 | $4,473,213 |
| 4.00% | ($13,777,481) | ($4,113,796) |

## *C. Comparison of earnings potential on $5.0 million reserve*

Assumptions:
- Initial investment equal to $5.0 million reserve currently on hand
- Lump sum depositing with PERS earns 8.0%
- Metro cash investment earns current rate of 2.9%

| Investment Scenario | Total Earnings | Net Present Value Earnings |
|---|---|---|
| $5.0 million deposit with PERS | $11,760,479 | $5,938,211 |
| $5.0 million Metro cash investment | $8,226,249 | $3,132,502 |
| Difference | $3,534,230 | $2,805,709 |

ATTACHMENT 3
Resolution No. 05-3598



ATTACHMENT 4
Resolution 05-3598