

## **CHAPTER 7.02**

### **FINANCING POWERS**

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## **7.02.010 Definitions**

Notwithstanding anything expressed or implied in the Metro Code to the contrary, as used in this chapter of the Metro Code, the following terms shall have the respective meanings set forth in this section 7.02.010.

**Authorizing action** means a resolution (or, if so determined by Council as provided in Section 7.02.110), 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.

**Bond measure** shall mean a ballot measure submitted by the Council to the electors of Metro as provided in Section 7.02.020 of the Metro Code for the purpose of requesting elector authorization to issue general obligation bonds for any lawful purpose.

**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.

**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.

**Council** means the Metro Council.

**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.

**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.

**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.

**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).

**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.

**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).

**Obligations** means:

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

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

**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.

**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.

**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. [Ord. 93-495, Sec. 2; Ord. 02-976, Sec. 1.]

### **7.02.020 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 7.02.110 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. [Ord. 93-495, Sec. 2; Ord. 02-976, Sec. 1.]

### **7.02.030 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 7.02.110 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. [Ord. No. 93-495, Sec. 2. Amended by Ord. No. 02-976, Sec. 1.]

## 7.02.040 Revenue Bonds

- (a) Issuance of Revenue Bonds. In accordance with Section 10 of the Metro Charter, 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 may 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 7.02.110 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. [Ord. 93-495, Sec. 2; Ord. 02-976, Sec. 1; Ord. 13-1317, Sec. 1.]

### **7.02.050 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 7.02.110 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. [Ord. 93-495, Sec. 2; Ord. 02-976, Sec. 1.]

### **7.02.060 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 7.02.110 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. [Ord. 93-495, Sec. 2; Ord. 02-976, Sec. 1.]

### **7.02.070 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 7.02.110 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. [Ord. 93-495, Sec. 2; Ord. 02-976, Sec. 1.]

### **7.02.080 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 7.02.110 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. [Ord. 93-495, Sec. 2; Ord. 02-976, Sec. 1.]

#### **7.02.090 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 7.02.110 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. [Ord. 93-495, Sec. 2; Ord. 02-976, Sec. 1.]

#### **7.02.100 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 Council 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. [Ord. 93-495, Sec. 2; Ord. 02-976, Sec. 1.]

#### **7.02.110 Authorizing Actions**

- (a) Adoption of Authorizing Action. The Council 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 Council; provided that Council 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 cleanup 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. [Ord. 93-495, Sec. 2; Ord. 02-076, Sec. 1.]

#### **7.02.120 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. [Ord. 93-495, Sec. 2; Ord. 02-076, Sec. 1.]

### **7.02.130 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. [Ord. 93-495, Sec. 2; Ord. 02-076, Sec. 1.]

### **7.02.140 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 to 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) Reject any and all bids received for such reasons as Metro, in its sole and absolute discretion, determines to be sufficient;
- (B) Waive any and all requirements or irregularities;
- (C) Extend 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) Following 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. [Ord. 93-495, Sec. 2; Ord. 02-076, Sec. 1.]