

Agenda Report

TO: CITY COUNCIL

August 11, 2008

THROUGH: FINANCE COMMITTEE

FROM: CITY MANAGER

SUBJECT: ADOPTION OF A RESOLUTION OF THE CITY OF PASADENA APPROVING THE ISSUANCE AND SALE BY THE PASADENA PUBLIC FINANCING AUTHORITY OF ITS TAXABLE VARIABLE RATE DEMAND LEASE REVENUE REFUNDING BONDS (PASEO COLORADO PARKING FACILITIES), SERIES 2008; APPROVING THE FORMS OF AND AUTHORIZING THE EXECUTION AND DELIVERY OF A LEASE AND A STANDBY BOND PURCHASE AGREEMENT; APPROVING THE FORM OF AND AUTHORIZING THE ACKNOWLEDGEMENT OF A PURCHASE CONTRACT, AUTHORIZING THE DISTRIBUTION OF AN OFFICIAL STATEMENT; AUTHORIZING THE TERMINATION OF THE 2000 LEASE; AUTHORIZING THE AMENDMENT OF THE REIMBURSEMENT AGREEMENT; AND AUTHORIZING THE EXECUTION AND DELIVERY OF OTHER RELATED DOCUMENTS AND APPROVAL OF OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH.

RECOMMENDATION:

It is recommended that the City Council adopt a Resolution approving the issuance and sale by the Pasadena Public Financing Authority of its taxable variable rate demand lease revenue refunding bonds (Paseo Colorado Parking Facilities), Series 2008; approving the forms of and authorizing the execution and delivery of a lease and a standby bond purchase agreement; approving the form of and authorizing the acknowledgement of a purchase contract, authorizing the distribution of an official statement; authorizing the termination of the 2000 lease; authorizing the amendment of the reimbursement agreement; and authorizing the execution and delivery of other related documents and approval of other documents and actions in connection therewith.

BACKGROUND

In 2000 the Pasadena Public Financing Authority issued \$32,080,000 Taxable Variable Rate Demand Lease Revenue Bonds (Paseo Colorado Parking Facilities) Series 2000 (the "2000 Bonds") in order to finance certain improvements to the parking facilities and public property adjacent to and beneath the then existing Plaza Pasadena shopping center and finance the acquisition of the right, title and interest of H-CHH Associates, a California limited partnership (the Developer), under a prior parking lease between the Commission and the developer dated December 19, 1979, as amended.

The 2000 Bonds were issued as variable rate bonds. The rate on the bonds is reset weekly by the remarketing agent. The Authority, the City and KBC Bank, the liquidity bank, have entered into a Standby Bond Purchase agreement which provides for the purchase of 2000 Bonds that have not been remarketed upon the optional or mandatory tender for purchases thereof under the Trust Agreement. The liquidity facility is available at all times for the sole purpose of paying the purchase price of the 2000 Bonds. The 2000 Bonds were issued with a AAA municipal bond insurance policy provided by Ambac.

Impact of Sub-prime Mortgage Crisis

The sub-prime mortgage crisis has had a far reaching impact in the capital markets. The increasing rate of defaults on sub-prime mortgages, which serves as collateral for asset-backed securities and collateralized debt obligations (CDOs), has created a chain reaction in the capital markets. Investment banks have written off billions in losses for the unsold inventories of such securities that continue to decline in value, while bond insurers have experienced downgrades due to insufficient capital reserves to cover mounting defaults on the loans they have guaranteed. This has resulted in a liquidity crisis in the financial markets that has severely impacted the auction rate market first and then the insured taxable and tax exempt variable rate bond market.

Effective June 26, 2007, Fitch Ratings agency withdrew its rating of Ambac and MBIA, the two largest providers of bond insurance to municipal issuers. As a result, the rate on the Paseo bonds increased from an average of 3.25% to as high as 9.25% in July. Moreover, the withdrawal of Ambac's rating by Fitch triggers an event of default under the liquidity facility agreement with KBC Bank and automatically terminates the liquidity facility causing the rates to increase to the maximum 12% rate. Through negotiations with City staff, KBC bank has agreed, for the time being, not to declare an event of default, based on the understanding that the City will move expeditiously to refund the 2000 Bonds. Staff has also negotiated a new liquidity facility with very favorable terms with the bank.

It is staff's recommendation to refund the bonds as soon as possible utilizing the City's underlying ratings on the bonds without any bond insurance. The refunding bonds (the "2008 Bonds") will be issued as taxable variable rate demand lease revenue bonds supported by a liquidity facility from KBC Bank. The maturity of the 2008 Bonds will be extended from 2025 to 2038 thereby reducing the expected average annual debt service on Paseo Colorado Parking fund by over \$600,000 per year. It is staff's expectation that this will be the last refunding as a result of the credit crisis and the downgrade of the bond insurers.

The following are the advantages and disadvantages of the proposed financing:

Advantages:

- Refunding the 2000 Bonds without Ambac insurance will help lower the interest cost back to its historical spread to the one month London Interchange Borrowing Offer Rate (LIBOR);
- The proposed refunding eliminates the City's exposure to abnormal market rates and risks associated with the insurance providers;
- The restructuring of the 200 Bonds and the extension of the maturity will reduce the annual debt service payments and positively impact the Paseo Parking fund balance.
- The refunding prevents the event of default and avoids an increase in the rates to the maximum 12% rate.

Disadvantages:

- The City will lose the insurance from Ambac. The insurance premiums were paid in lump sum in 2000 in the amount of \$437,533 and \$43,693 was paid for the reserve fund surety premium. The unamortized portion of the premiums is \$327,235 and is considered sunk cost;
- There is an estimated \$260,000 additional cost to cover the issuance cost and the underwriter's fee.
- The City must fund a reserve fund from bond proceeds, due to the surrender of the surety bond policy.

FISCAL IMPACT:

The 2008 Bonds will have a maximum term of 30 years with a final maturity in 2038. The bonds will be uninsured and will be issued in a variable rate mode supported by a liquidity facility from KBC Bank. It is estimated that the initial all in interest cost will be approximately 3.25% rate in today's interest rate environment. The maximum rate on the 2008 Bonds is 12%. The average annual debt service is estimated at \$1.6 million based on the average historic rate paid since 2000 as compared to \$2.5 million paid in fiscal year 2008. The following represents the estimated sources and uses of funds:

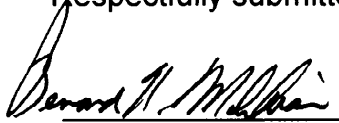
Sources:

Bond proceeds	\$28,670,000
Existing Reserve Fund	<u>1,357,506</u>
Total Sources	30,027,506

Uses:

Refunding escrow deposit	27,770,000
Reserve Fund	2,000,000
Cost of issuance	150,000
Underwriter's discount	106,142
Rounding	<u>1,364</u>
Total uses	\$30,027,506

Respectfully submitted,



Bernard K. Melekian
City Manager

Prepared by:



Vic Erganian
Deputy Director of Finance

Approved by:



Steve Mermell
Director of Finance

RESOLUTION NO. ____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASADENA APPROVING THE ISSUANCE AND SALE BY THE PASADENA PUBLIC FINANCING AUTHORITY OF ITS TAXABLE VARIABLE RATE DEMAND LEASE REVENUE REFUNDING BONDS (PASEO COLORADO PARKING FACILITIES), SERIES 2008; APPROVING THE FORMS OF AND AUTHORIZING THE EXECUTION AND DELIVERY OF A LEASE AND A STANDBY BOND PURCHASE AGREEMENT; APPROVING THE FORM OF AND AUTHORIZING THE ACKNOWLEDGEMENT OF A PURCHASE CONTRACT, AUTHORIZING THE DISTRIBUTION OF AN OFFICIAL STATEMENT; AUTHORIZING THE TERMINATION OF THE 2000 LEASE; AUTHORIZING THE AMENDMENT OF THE REIMBURSEMENT AGREEMENT; AND AUTHORIZING THE EXECUTION AND DELIVERY OF OTHER RELATED DOCUMENTS AND APPROVAL OF OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH

WHEREAS, pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California (the "Act"), the City of Pasadena (the "City") has entered into a joint exercise of powers agreement with the Pasadena Community Development Commission (the "Commission") creating the Pasadena Public Financing Authority (the "Authority"); and

WHEREAS, within the Act, Article 4 thereof (the "Marks-Roos Local Bond Pooling Act of 1985") authorizes and empowers a joint exercise of powers authority created pursuant to a joint exercise of powers agreement to exercise additional powers in furtherance of its purpose, including the issuance of bonds; and

WHEREAS, the City and the Commission are empowered by law to acquire and dispose of real property for a public purpose; and

WHEREAS, in 2000, the Authority authorized the issuance of its Taxable Variable Rate Demand Lease Revenue Bonds (Paseo Colorado Parking Facilities), Series 2000 (the "2000 Bonds") to assist in the refinancing of a developer's interest under a parking lease related to parking facilities located in the City and the financing of the costs of certain improvements to be made to the parking facilities and other related property and facilities (collectively, the "Project"); and

WHEREAS, in connection with the financing of the Project and the issuance of the 2000 Bonds, the Commission leased certain properties to the Authority pursuant to an Authority Lease, dated as of June 1, 2000 (the "2000 Authority Lease"), by and between the Commission and the Authority, and the Authority subleased such properties to the City pursuant to a Lease Agreement, dated as of June 1, 2000 (the "2000 Lease"), by and between the Authority and the City; and

WHEREAS, the 2000 Bonds were payable solely from revenues of the Authority, consisting primarily of lease payments payable by the City to the Authority under the 2000 Lease; and

WHEREAS, in connection with the issuance of the 2000 Bonds, the Authority, the Commission and the City agreed, pursuant to a Parking Revenue Reimbursement Agreement (the "Reimbursement Agreement"), by and among the Commission, the Authority and the City, that the Commission shall transfer to the City certain revenues to be derived from the operation of parking facilities related to the Project; and

WHEREAS, the Commission, the City and the Authority have determined that it is in the best interests of the City at this time to refinance the City's obligation and prepay the lease payments under the 2000 Lease, and as a result thereof, it is in the best interest of the Authority to refund all of the currently outstanding 2000 Bonds; and

WHEREAS, the Authority desires to issue Taxable Variable Rate Demand Lease Revenue Refunding Bonds (Paseo Colorado Parking Facilities), Series 2008 (the "Bonds"), pursuant to a certain Trust Agreement, dated as of September 1, 2008 (the "Indenture") by and between the Authority and Wells Fargo Bank, National Association, as trustee (the "Trustee"), for the purposes of providing funds to refund the 2000 Bonds, paying the costs of issuance of the Bonds and funding a reserve fund for the Bonds; and

WHEREAS, in connection with the Commission's desire to assist the Authority in refinancing the 2000 Bonds through the issuance of the Bonds, the Commission, as lessor, intends to lease certain real property and improvements (the "Leased Premises") to the Authority, as lessee, pursuant to an Authority Lease (the "Authority Lease") between the Commission and the Authority; and

WHEREAS, in furtherance of the issuance of the Bonds, the Authority, as sublessor, intends to sublease the Leased Premises, to the City, as sublessee, pursuant to a certain Lease Agreement (the "Lease") between the Authority and the City; and

WHEREAS, the Authority, the Commission and the City desire to amend the Reimbursement Agreement pursuant to an amendment (the "Amendment to Reimbursement Agreement") to reflect the extension of the term thereof and other changes; and

WHEREAS, the Authority will enter into a bond purchase agreement (the "Purchase Contract") pursuant to which Merrill Lynch, Pierce, Fenner & Smith Incorporated (the "Underwriter") will purchase the Bonds and the Authority will deliver the Bonds to the Underwriter, upon certain conditions; and

WHEREAS, the City will acknowledge and deliver the Purchase Contract to the Underwriter and the Authority; and

WHEREAS, the Underwriter will distribute an official statement (the "Official Statement") relating to the Bonds to prospective purchasers of the Bonds; and

WHEREAS, the Bonds, as originally issued, shall bear interest at a weekly rate and shall be subject to remarketing upon tender by the owners thereof; and

WHEREAS, in order to provide for the purchase of any Bonds not so remarketed, the Authority is expected to enter into a standby bond purchase agreement (the "Standby Bond Purchase Agreement") with the Trustee, the bank named therein (the "Bank") and the City; and

WHEREAS, all acts, conditions and things required by the Constitution and laws of the State of California to exist, to have happened and to have been performed precedent to and in connection with the consummation of the transactions authorized hereby do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the City is now duly authorized and empowered, pursuant to each and every requirement of law, to consummate such transactions for the purpose, in the manner and upon the terms herein provided;

NOW, THEREFORE, BE IT RESOLVED, ORDERED AND FOUND, by the City Council of the City of Pasadena that:

Section 1. Declaration of City Council. The City Council hereby specifically finds and declares that the actions authorized hereby constitute and are with respect to public affairs of the City, and that the statements, findings and determinations of the City set forth in the preambles above and in the documents approved herein are true and correct.

Section 2. Finding Regarding Financing by Authority. The City Council hereby finds that the refunding of the 2000 Bonds through the issuance of the Bonds by the Authority will result in demonstrable savings in effective interest rate, bond preparation, bond underwriting and/or bond issuance costs.

Section 3. Approval of Financing. The issuance of the Bonds by the Authority in an aggregate principal amount not to exceed \$30,000,000 is hereby approved.

Section 4. Lease. The form of Lease presented to this meeting and on file with the City Clerk is hereby approved. The City Manager or the Director of Finance or the duly authorized designee of either of such officers is hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver said Lease in substantially said form, with such changes therein as such officer may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 5. Standby Bond Purchase Agreement. The form of Standby Bond Purchase Agreement presented to this meeting and on file with the City Clerk is hereby approved. The City Manager or the Director of Finance or the duly authorized designee of either of such officers is hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver said Standby Bond Purchase Agreement in substantially said form, with such changes therein as such officer may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 6. Purchase Contract. The form of Purchase Contract presented to this meeting and on file with the City Clerk is hereby approved. The Director of Finance is hereby authorized

and directed, for and in the name and on behalf of the City, to acknowledge and deliver said Purchase Contract in substantially said form, with such changes therein as such officer may require or approve, such approval to be conclusively evidenced by the acknowledgement and delivery thereof.

Section 7. Official Statement. The form of Official Statement relating to the Bonds presented to this meeting and on file with the City Clerk is hereby approved. The Underwriter is hereby authorized to distribute copies of said Official Statement to persons who may be interested in the purchase of the Bonds and to all actual purchasers of the Bonds.

Section 8. Termination of 2000 Lease. In connection with the refunding of the 2000 Bonds, the City Manager or the Director of Finance or the duly authorized designee of either of such officers is hereby authorized and directed, for and in the name and on behalf of the City, to terminate the 2000 Lease, as set forth in the Termination Agreement, or to do any and all things and to execute and deliver any and all documents which such officer may deem necessary or advisable in order to consummate the termination of the 2000 Lease.

Section 9. Amendment of the Reimbursement Agreement. In connection with the refunding of the 2000 Bonds, the City Manager or the Director of Finance or the duly authorized designee of either of such officers is hereby authorized and directed, for and in the name and on behalf of the City, to amend the Reimbursement Agreement, including the extension of its original term, as set forth in the Amendment to Reimbursement Agreement, or to do any and all things and to execute and deliver any and all documents which such officer may deem necessary or advisable in order to consummate the amendment of the Reimbursement Agreement. The form of the Amendment to Reimbursement Agreement presented to this meeting and on file with the City Clerk is hereby approved.

Section 10. Appointment of Professionals. The City consents to the appointment of (i) Sidley Austin LLP, San Francisco, California, as bond counsel and disclosure counsel for the financing, (ii) Merrill Lynch, Pierce, Fenner & Smith Incorporated as underwriter and remarketing agent for the Bonds and (iii) KBC Bank N.V., New York Branch as the liquidity provider for the Bonds.

Section 11. Attestations. The City Clerk is hereby authorized and directed to attest the signature of the City Manager, the Director of Finance or such other City officers and to affix and attest the seal of the City, as may be required or appropriate in connection with the execution and delivery of said Lease, Termination Agreement, Standby Bond Purchase Agreement, Purchase Contract, Amendment to Reimbursement Agreement, Official Statement or related documents.

Section 12. Other Actions. The City Manager, the Director of Finance, the City Clerk and the other officers of the City are hereby authorized and directed jointly and severally to do any and all things and to execute and deliver any and all documents which they may deem necessary or advisable in order to consummate the transactions contemplated and otherwise to carry out, give effect to and comply with the terms and intent of this Resolution, the Lease, the Purchase Contract, the Termination Agreement, the Amendment to Reimbursement Agreement

and the Standby Bond Purchase Agreement. Such actions heretofore taken by such officers are hereby ratified, confirmed and approved.

Section 13. Effective Date. This Resolution shall take effect from and after its date of passage and adoption.

PASSED by the City Council of the City of Pasadena at a regular meeting this ___ day of August, 2008, by the following vote:

AYES:

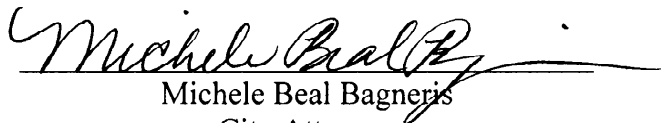
NOES:

ABSENT:

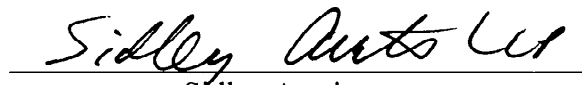
ATTEST:

Mark Jomsky, CMC
City Clerk

APPROVED AS TO FORM:


Michele Beal Bagneris
City Attorney

APPROVED AS TO FORM:


Sidley Austin LLP
Bond Counsel