

Agenda Report

August 15, 2011

TO: Honorable Mayor and City Council

THROUGH: Finance Committee

FROM: Department of Finance

SUBJECT: ADOPTION OF A RESOLUTION OF THE CITY COUNCIL AUTHORIZING THE ISSUANCE OF ONE OR MORE CITY OF PASADENA PENSION OBLIGATION DEBENTURES IN AN AMOUNT NOT TO EXCEED THE LESSER OF (i) \$65 MILLION OR (ii) THE AMOUNT REQUIRED TO ACHIEVE A FUNDING LEVEL FOR THE CITY OF PASADENA FIRE AND POLICE RETIREMENT SYSTEM OF 85% AND THE ISSUANCE OF ONE OR MORE SERIES OR SUBSERIES OF CITY OF PASADENA PENSION OBLIGATION BONDS, APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION OF A TRUST AGREEMENT, BOND PURCHASE AGREEMENT AND CONTINUING DISCLOSURE AGREEMENT AND APPROVING THE FORM OF AND AUTHORIZING THE DISTRIBUTION OF A PRELIMINARY OFFICIAL STATEMENT AND AUTHORIZING CERTAIN MATTERS RELATING THERETO

RECOMMENDATION:

It is recommended that the City Council:

- A) Adopt a resolution authorizing the issuance of one or more City of Pasadena Pension Obligation Debentures in an amount not to exceed \$65 million and the issuance of one or more series or subseries of the City of Pasadena Pension Obligation Bonds (POBs), approving the form of and authorizing the execution of a Trust Agreement, Bond Purchase Agreement and Continuing Disclosure Agreement and approving the form of and authorizing the distribution of a Preliminary Official Statement and authorizing certain matters relating thereto;
- B) Authorize the City Manager and/or the Director of Finance to initiate a validation action with respect to the bonds if determined to be appropriate or required by bond counsel, in consultation with the City Attorney.

BACKGROUND:

The City has an obligation to fund the Fire and Police Retirement System under the terms of a Contribution Agreement, entered into by the City and the System, dated March 1999. In 1999 and 2004 the City issued \$101.9 million and \$40 million of pension obligation bonds, respectively, in order to fund the City's obligations in respect to the Contribution Agreement. Combined annual debt service on these bonds is approximately \$13.5 million. The primary source of funds to pay the debt service on the bonds, tax allocation revenue of the Downtown Project Area as redirected to the City pursuant to SB841, will expire in FY2015, at roughly the same time as a mandatory tender (i.e. balloon payment) of \$81 million is due on the bonds.

Despite the issuance of prior pension bonds, supplemental contributions from the City to the System are still required on an annual basis to fund the System in accordance with prior agreements. These supplemental contributions are expected to be as high as \$9-10 million per year over the next seven years. The issuance of new pension bonds would greatly reduce these annual contributions, although obligate the City to additional annual debt service requirements in FY2016-2041. The bonds will be structured in such a way that the total annual direct General Fund debt service shall be at an annual level amount of \$16.5 million, consistent with the pension funding plan the City Council approved on March 28, 2011.

Additionally, the Contribution Agreement between the City and the System established investment earnings and inflation rate assumptions, which in part drive asset and liability projections under the System, and which no longer appear realistic and should be modified. While such action is prudent, the result will be a further increase in the actuarial liability to the City.

On March 28, 2011, Council approved staff's recommendation to address these issues through the following actions:

- 1) Initiate the issuance of not to exceed \$65 million in pension obligation bonds (the "2011 bonds") to fund the Fire and Police Retirement System at 85% of its actuarially accrued liability provided such issuance can be achieved at a maximum "all in" interest rate on the bonds not to exceed 7.5%;
- 2) Approve in concept the future refinancing of approximately \$81 million of existing pension obligation bonds, 1999 and 2004 issues prior to their mandatory call or maturity in May 2015;
- 3) Negotiate changes to Contribution Agreement 16,900 and Settlement and Release Agreement 18,550 between the City of Pasadena and the Fire and Police Retirement System including:

- a. Removing references to other pension systems operating under the County Employees Retirement Law of 1937; and
 - b. Providing for annual investment return and inflation rate assumptions for the Fire and Police Retirement System to be set annually by mutual agreement between the City and the System's board; and
- 4) Return to City Council for all required subsequent approvals.

In furtherance of the City Council's direction, the resolution accompanying this report would authorize the issuance of the 2011 bonds as well as approve the form of trust agreement pursuant to which such bonds will be issued. As previously directed, the 2011 bonds would be issued in a principal amount not to exceed \$65 million to fund the Fire and Police Retirement System at 85% of its actuarially accrued liability. The 2011 bonds would mature no later than 2041, and would be authorized to be issued as fixed rate or variable rate obligations, whichever is most advantageous to the City. If issued in variable rate form (based upon a LIBOR or other index), the maximum interest rate on the 2011 bonds would not exceed 15% per annum. Although it would be anticipated at the time of issuance that the "all-in" interest rate would not exceed 7.5%, there can be no assurance that interest rates would not exceed this expectation during the term of the 2011 bonds, or at the time of mandatory prepayment, as described below.

The bonds may be issued subject to mandatory prepayment or tender on a date earlier than the authorized final maturity date. This early prepayment will allow the bonds to obtain a lower interest cost, based upon the current yield curve. This tender feature, which was also contained in the 1999 and 2004 bonds, does subject the City to interest rate risk at the time of any mandatory tender. The City can hedge against this risk, in whole or in part, by prepaying the bonds with legally available moneys. As part of the plan to address challenges associated with the Fire and Police Retirement System, on March 28, 2011, the City Council approved in concept the refunding and restructuring of the existing 1999 Pension Obligation Bonds and the 2004 Pension Obligation Bonds. Restructuring these bonds, which have a mandatory tender in 2015 for the 1999 POBs and a maturity in 2015 for the 2004 POBs, is an integral part of the City's long range financial plan of the General Fund and the funding of the FPRS.

The resolution authorizes the City Manager and/or the Director of Finance to initiate a validation action with respect to the bonds if determined to be appropriate or required by bond counsel, in consultation with the City Attorney. Further, if amendments to the Contribution Agreement are implemented prior to the issuance of the bonds, the validation action may include the revised Contribution Agreement as part of the validation.

The resolution authorizes the bonds to be issued at a fixed or variable rate with the final maturity not to exceed 30 years. The optimal recommended structure is a thirty year bond with a mandatory tender in five years, similar to the 1999 and 2004 pension obligation bonds. With the mandatory tender in five years, the true interest cost of the

financing is estimated at 3.14% versus 7.34% if issued at a fixed rate without a mandatory tender. This will save the City approximately \$11 million in interest expense in the first five years in return for the risk of refinancing the proposed 2011 bonds in year 2016.

COUNCIL POLICY CONSIDERATION:

As part of its strategic plan goal to maintain fiscal responsibility and stability, the City Council established an objective to develop a plan to address the challenges associated with funding the Fire and Police Retirement System. This report and the recommendation contained herein are intended to fulfill that objective.

FISCAL IMPACT:

The actual amount of bonds to issue in order to fund the system at 85% funding ratio will depend on several factors including the market value of the FPRS assets at the time the bonds are issued, the assumed discount rate when valuing the system's liabilities and the assumed inflation rate in the actuarial analysis. The following will be the estimated sources and uses of funds of the proposed 2011 pension obligation bonds assuming an issuance of \$60.6 million bonds.

Principal amount of bonds	\$60,610,000
Premium/Original issue discount	-0-
Accrued interest	-0-
TOTAL SOURCES	60,610,000
Deposit to FPRS System	59,800,000
Cost of issuance- All in	806,100
Contingency	3,900
TOTAL USES	60,610,000

The annual debt service payment is estimated at approximately \$2 million per year for the first five years and \$5.8 million thereafter. It is estimated that debt service payments will be made from SB481 revenues and the SB481 reserve balance until fiscal year 2015, after which, the General Fund will service the debt in accordance to the Council approved funding plan. Funding for this action will be addressed by the utilization of

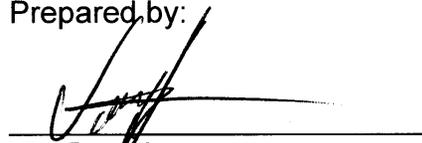
existing budgeted appropriations in FY2012 operating budget of SB481 transfers to the pension bonds Debt Service Fund account 6807-902-951900. No additional indirect or support costs will be required.

Respectfully submitted,



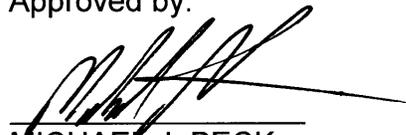
ANDREW GREEN
Director of Finance
Department of Finance

Prepared by:



Vic Erganian
Deputy Director of Finance/City Treasurer

Approved by:



MICHAEL J. BECK
City Manager

Attachments:

- 1- Resolution
- 2- Preliminary Official Statement
- 3- Trust Agreement
- 4- Bond Purchase Agreement
- 5- Continuing Disclosure Report

RESOLUTION NO. _____

RESOLUTION OF THE CITY COUNCIL AUTHORIZING THE ISSUANCE OF ONE OR MORE CITY OF PASADENA PENSION OBLIGATION DEBENTURES IN AN AMOUNT NOT TO EXCEED THE LESSER OF (i) \$65 MILLION OR (ii) THE AMOUNT REQUIRED TO ACHIEVE A FUNDING LEVEL FOR THE CITY OF PASADENA FIRE AND POLICE RETIREMENT SYSTEM OF 85% AND THE ISSUANCE OF ONE OR MORE SERIES OR SUBSERIES OF CITY OF PASADENA PENSION OBLIGATION BONDS, APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION OF A TRUST AGREEMENT, BOND PURCHASE AGREEMENT AND CONTINUING DISCLOSURE AGREEMENT AND APPROVING THE FORM OF AND AUTHORIZING THE DISTRIBUTION OF A PRELIMINARY OFFICIAL STATEMENT AND AUTHORIZING CERTAIN OTHER MATTERS RELATING THERETO

WHEREAS, the City of Pasadena (the "City"), in accordance with Article XV of the City Charter, enacted Chapter 2.250 of Title II, Article VI of the Pasadena Municipal Code (as each may be amended from time to time, being referred to herein as the "Retirement Law"); and

WHEREAS, the Retirement Law obligates the City to (1) make contributions to the City of Pasadena Fire and Police Retirement System (the "System") to fund pension benefits of certain of its employees, (2) amortize the unfunded actuarial accrued liability with respect to such pension benefits, and (3) appropriate funds for the purposes described in (1) and (2); and

WHEREAS, pursuant to that certain Fire and Police Retirement System Contribution Agreement (the "First Contribution Agreement") by and between the City and the System, the City committed to make payments toward the unfunded actuarial accrued liability existing as of May 23, 1991 and committed to contribute to the System all sums received by the City under the Amended and Restated Reimbursement Agreement, dated as of July 7, 1986, by and between the City and the Pasadena Community Development Commission; and

WHEREAS, as of March 18, 1999, the City and the System entered into a new contribution agreement (No. 16,900) (the "Second Contribution Agreement") which, subject to the terms and conditions thereof, superseded and replaced the First Contribution Agreement, and under which, subject to certain conditions, the City agreed to issue bonds in a sufficient amount to generate a net proceeds to be paid to the System, after payment of costs of issuance, of \$100 million; and

WHEREAS, in August, 1999, the City issued \$101,940,000 aggregate principal amount of City of Pasadena Taxable Pension Funding Bonds, Series 1999, pursuant to a Trust Agreement, dated as of August 1, 1999, by and between BNY Western Trust Company, as trustee and the City, for the purpose of refunding as much as all of the City's then obligations to the System and thereby providing funds to the System for investment; and

WHEREAS, in August 2004, the City issued an additional \$41 million of City of Pasadena Taxable Pension Funding Bonds, Series 2004 (Index Bonds) to refinance additional unfunded actuarial accrued liability (“UAAL”) payable to the System under the Contribution Agreement, by refunding debentures issued by the City to the System in an equivalent amount;

WHEREAS, in August 2011, the City and the System expect to enter into a amended and restated contribution agreement (the “Amended and Restated Contribution Agreement”) which, subject to the terms and conditions thereof, amends certain provisions of the Second Contribution Agreement, and under which, subject to certain conditions, the City agrees to issue bonds in a sufficient amount to generate a net proceeds to be paid to the System, after payment of costs of issuance, sufficient to reduce the UAAL of the System to a level at or below the level required by the Amended and Restated Contribution Agreement;

WHEREAS, the City now desires to evidence its obligation to the System to pay additional UAAL owed by the City to the System by issuing one or more debentures to the System in an aggregate amount not to exceed the lesser of (i) \$65 million or (ii) the amount required to achieve a funding level for the System of 85% (based upon June 30, 2010 market valuations of the System’s assets and actuarial assumptions to be determined by the System’s actuary and approved by the System after consultation with the City and the City’s consultants) of one or more debentures (such debentures in the form on file with the City Clerk, with such changes and omission as are made pursuant to this Resolution, being referred to herein as the “2011 Debentures”) evidencing some, up to all, of the UAAL owed to the System under the Amended and Restated Contribution Agreement; and

WHEREAS, the City further desires to issue bonds (the “2011 Bonds”) in one or more series or subseries in an aggregate principal amount not to exceed the lesser of (i) \$65 million or (ii) the amount required to achieve a funding level for the System of 85% (based upon June 30, 2010 market valuations of the System’s assets and actuarial assumptions to be determined by the System’s actuary and approved by the System after consultation with the City and the City’s consultants), plus certain cost incident to issuance of the 2011 Bonds as described below, for the purpose of refunding as much as all of the City’s remaining UAAL obligations to the System and thereby providing funds to the System for investment; and

WHEREAS, there are on file with the City Clerk, in addition to the form of the 2011 Debentures (mentioned below), (i) the proposed form of a Trust Agreement to be entered into between the City and The Bank of New York Mellon Trust Company, N.A. (the “Trustee”), relating to the 2011 Bonds (such Trust Agreement in the form on file with the City Clerk, with such changes, insertions and omissions as are made pursuant to this Resolution, being referred to herein as the “Trust Agreement”), (ii) the proposed form of a Bond Purchase Agreement to be entered into between the City and the underwriter named therein (the “Bond Purchase Agreement”), (iii) the proposed form of a Continuing Disclosure Agreement to be entered into between the City and the dissemination agent named therein (the “Continuing Disclosure Agreement”) and (iv) the proposed form of a Preliminary Official Statement (the “Preliminary Official Statement”); and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Pasadena as follows:

Section 1. The City Council of the City of Pasadena (the "City Council") hereby finds and declares that the issuance of one or more 2011 Debentures, the issuance of one or more series or subseries of 2011 Bonds to refund the 2011 Debentures and the other actions contemplated by this Resolution are in the best interests of the City and are consistent with the City's obligations under the Charter and the Amended and Restated Contribution Agreement.

Section 2. The City Council hereby authorizes and approves, subject to the approval of the Amended and Restated Contribution Agreement by the City Council and the execution of the same by the City, the issuance of one or more 2011 Debentures from time to time, and authorizes the Director of Finance of the City (the "Director of Finance") to execute and deliver one or more 2011 Debentures to the System, in substantially the form presented to this meeting and on file with the City Clerk, with such changes therein, deletions therefrom and additions thereto as the Director of Finance and City Attorney shall approve, such approval to be conclusively evidenced by the execution and delivery of the 2011 Debentures to the System, and the City Clerk is authorized and directed to attest on behalf of the City; provided, however, that a 2011 Debenture shall be in a principal amount which, when added to the unpaid principal amount of all other outstanding Debentures, or obligations which refund Debentures will not exceed the total of the UAAL of the City to the System (as determined by the actuary for the System) remaining unpaid on the date of issuance of a 2011 Debenture. Each 2011 Debenture shall be prepayable at any time without premium and shall mature not later than December 31, 2041. Each 2011 Debenture as executed shall constitute an obligation imposed by law, pursuant to the Constitution of the State of California and the Retirement Law and an obligation of the City not limited as to payment from any special source of funds. A 2011 Debenture shall not, however, constitute an obligation of the City for which the City is obligated or permitted to levy or pledge any form of taxation or for which the City has levied or pledged or will levy or pledge any form of taxation.

Section 3. The proposed form of Trust Agreement, between the City and the Trustee, on file with the City Clerk, is hereby approved and the Director of Finance is hereby authorized to execute and deliver the Trust Agreement on behalf of the City, substantially in the form on file with the City Clerk, with such changes therein, deletions therefrom and additions thereto as the Director of Finance and City Attorney shall approve, such approval to be conclusively evidenced by the execution and delivery of the Trust Agreement, and the City Clerk is authorized and directed to attest on behalf of the City.

Section 4. The City Council hereby authorizes and approves the issuance of the 2011 Bonds and hereby authorizes the Director of Finance to execute the 2011 Bonds, and the City Clerk to attest on behalf of the City and to cause the 2011 Bonds to be authenticated and delivered in accordance with the Trust Agreement. The 2011 Bonds shall be in substantially one or more of the forms attached to the Trust Agreement, with such changes therein, deletions therefrom and additions thereto as the Director of Finance and City Attorney shall approve, such approval to be conclusively evidenced by the execution and delivery of the 2011 Bonds. The 2011 Bonds may be issued in one or more series or subseries, and may be issued as fixed rate current interest rate bonds, capital appreciation bonds, variable rate bonds with or without tender rights, or any combination of the foregoing all as determined by the Director of Finance; provided, however, that (i) the aggregate principal amount of the 2011 Bonds shall not exceed the sum of the outstanding 2011 Debentures, plus the underwriter's discount, plus any original

issue discount on the 2011 Bonds, plus the costs of issuance of the 2011 Bonds; (ii) the 2011 Bonds shall mature not later than December 31, 2041, (iii) the true interest cost of the 2011 Bonds for fixed rate bonds (for the initial interest period if such period is shorter than the maturity of the 2011 Bonds or for the period to maturity if the rate is fixed to maturity) shall not exceed 7.5% per annum and the true interest cost of the 2011 Bonds (if interest is fixed to maturity) shall not exceed 7.5% per annum, and (iv) the interest rate on the 2011 Bonds which are floating rate bonds shall not exceed the lesser of 15% or the maximum rate permitted by law.

Section 5. The 2011 Bonds shall constitute an obligation imposed by law, pursuant to the Constitution of the State of California and the Retirement Law and an obligation of the City not limited as to payment from any special source of funds. The 2011 Bonds shall not, however, constitute an obligation of the City for which the City is obligated or permitted to levy or pledge any form of taxation or for which the City has levied or pledged or will levy or pledge any form of taxation.

Section 6. The 2011 Bonds are hereby authorized to be sold at public or private or negotiated sale, as determined to be in the best interests of the City by the Director of Finance with the advice of the City's financial advisor or underwriter. The proposed form of Bond Purchase Agreement, by and between the City and Wedbush Morgan Securities, as underwriter, on file with the City Clerk, is hereby approved. and the Director of Finance is hereby authorized to execute and deliver the Bond Purchase Agreement, on behalf of the City, substantially in the form on file with the City Clerk, with such changes therein, deletions therefrom and additions thereto as the Director of Finance and City Attorney shall approve, including such changes therein, deletions therefrom and additions thereto necessary to accommodate a private placement of the 2011 Bonds and the use of Wedbush Morgan Securities as placement agent, as the Director of Finance and City Attorney shall approve, such approval to be conclusively evidenced by the execution and delivery of the Bond Purchase Agreement, and the City Clerk is authorized and directed to attest on behalf of the City; provided that the underwriter's discount shall not exceed 1% of the principal amount of the 2011 Bonds.

Section 7. The form of Preliminary Official Statement is approved substantially in the form on file with the City Clerk. The City Manager and Director of Finance of the City are each authorized and directed to execute and deliver for and in the name and on behalf of the City a final Official Statement in substantially the form of the Preliminary Official Statement with such changes therein, deletions therefrom and additions thereto as the City Manager or the Director of Finance of the City may require or approve, such approval to be conclusively evidenced by the execution and delivery of the Official Statement with such changes, deletions or additions. The Underwriters are authorized to distribute copies of the Preliminary Official Statement and the Official Statement to prospective purchasers of the 2011 Bonds and all actual purchasers of the 2011 Bonds from the Underwriter acting in such capacity. The City Manager and the Director of Finance of the City, and each of them, are authorized and directed to certify on behalf of the City that the form of the Preliminary Official Statement delivered by the City in advance of the sale of the 2011 Bonds is deemed final as of its date, within the meaning of Rule 15c2-12 promulgated under the Securities Exchange Act of 1934 (the "Rule") (except for the omission of certain final pricing, rating and related information as permitted by the Rule).

Section 8. The Continuing Disclosure Agreement is hereby approved substantially in the form on file with the City Clerk. The Bank of New York Mellon Trust Company, N.A. shall act as initial Dissemination Agent, and the Director of Finance and his specified designees and each of them, are each authorized to execute and deliver the Continuing Disclosure Agreement, for and in the name of and on behalf of the City substantially in the form attached hereto, with such changes therein, deletions therefrom and additions thereto as the Director of Finance and City Attorney shall approve, such approval to be conclusively evidenced by the execution and delivery of the Continuing Disclosure Agreement.

Section 9. The City Council hereby approves Sidley Austin LLP to act as bond counsel and disclosure counsel to the City and Wedbush Morgan Securities as underwriter or placement agent.

Section 10. The City Manager and the Director of Finance are, and each of them is, authorized, for and in the name of the City, to do any and all things, and to execute and deliver any and all documents which they or any of them deem necessary or advisable in order to consummate the transactions contemplated by this Resolution and otherwise to carry out, give effect to and comply with the terms and intent of this Resolution. The Director of Finance or the City Treasurer is hereby authorized to invest legally available funds of the City in the 2011 Bonds with maturities in excess of five years if he or she deems it to be in the best interest of the City.

Section 11. The City Manager and the Director of Finance are, and each of them is, authorized, for and in the name of the City, to do any and all things, including bringing a validation action under Section 860 of the California Code of Civil Procedure, and to execute and deliver any and all documents which they or any of them deem necessary or advisable, upon the advice of bond counsel and the City Attorney in order to consummate the transactions contemplated by this Resolution and otherwise to carry out, give effect to and comply with the terms and intent of this Resolution.

Section 12. This Resolution shall take effect immediately upon its adoption.

Adopted at the regular meeting of the City Council on the 15th day of August, 2011 by the following vote:

AYES:

NOES:

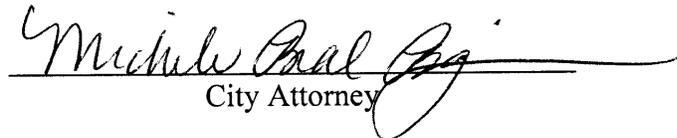
ABSENT:

ABSTAIN:

ATTEST:

By: _____
CITY CLERK

APPROVED AS TO FORM:



City Attorney

APPROVED AS TO FORM:



Eric D. Tashman, Esq.
Sidley Austin LLP
Bond Counsel