

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

444



FROM: Executive Office

SUBMITTAL DATE:
February 23, 2004

SUBJECT: Pension Obligation Bonds

RECOMMENDED MOTION: That Resolution #2004-099 authorizing the issuance of one or more series of Pension Obligation Bonds, approving the form of and authorizing the execution and delivery of a Trust Agreement, and authorizing a Validation Action and other matters relating thereto be approved.

BACKGROUND: Approval of Resolution #2004-099 will authorize the issuance of Pension Obligation Bonds (POBs), but will not obligate the County to do so. As a participant in the California Public Employee's Retirement System (CalPERS) the County makes annual contributions to CalPERS to fund the pension benefits for its employees. Because of poor market performance on CalPERS' investments, coupled with the enhanced retirement benefits provided to county employees, there exists an imbalance in the County's CalPERS contributions, where the County's assets held by CalPERS are insufficient to meet the future pension payment obligations of the County. This imbalance, referred to as an Unfunded Accrued Actuarial Liability (UAAL), is approximately \$321 million for the County.

(CONTINUED)

FORM APPROVED
COUNTY COUNSEL
MAX 01 2004
Departmental Concurrence

Dean Deines

Dean Deines
Principal Management Analyst

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 7,500	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$ 7,500	Budget Adjustment:	No
	Annual Net County Cost:	\$ N/A	For Fiscal Year:	03-04

SOURCE OF FUNDS: Capital Finance & Administration Budget	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION: **APPROVE**

Ed Power

County Executive Office Signature

Policy

Consent

Dep't Recomm.:
Per Exec. Ofc.:

5007448 - 3 6MIS: 05

Prev. Agn. Ref.: | **District:** | **Agenda Number:**

**ATTACHMENTS FILED
WITH THE CLERK OF THE BOARD**

3.5

Options are being explored to satisfy this liability including negotiating with CalPERS to extend the repayment of the UAAL over 20 to 30 years and issuing Pension Obligation Bonds. While county staff discusses the possibility of extending payment of the UAAL with CalPERS, it is being recommended that the County begin the process of issuing POBs, in the event POBs are deemed appropriate. In issuing POBs, the County has the option of issuing them under the County's name or joining the California State Association of Counties (CSAC) POB pool, which will be sold through its Statewide Communities Development Authority (CSCDA). Both options are being reviewed to determine which provides the County the greatest benefit.

To insure the County is prepared to issue POBs, it is being recommended that the County initiate a court validation on the UAAL. The court validation is necessary to validate that the County's UAAL is an existing debt and issuing POBs would be a refunding of that debt, not an issuance of new debt. This validation is necessary regardless of which POB option is determined to be the most beneficial, and will be valid for either option. Resolution #2004-099 will allow the law firm Orrick Herrington and Sutcliffe to proceed with the validation process on behalf of the County. This validation process does not commit the County to issuing POBs nor necessarily issuing through CSCDA. Any further actions to issue POBs will be brought before the Board of Supervisors for approval.

The cost of the validation proceedings will be included in the cost of issuance if the County issues POBs. If the County does not participate in the POB pool there will be a \$7,500 cost for legal services.

Concurrently with examining the potential issuance of POBs, county staff is also analyzing the benefits of making a prepayment of the County's FY 04-05 CalPERS contribution in order to save interest costs and take advantage of the 4% prepayment discount. Staff will provide a detailed report to the Board once the analysis is completed.

1 COUNTY OF RIVERSIDE

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3 RESOLUTION NO. 2004-099

4 RESOLUTION AUTHORIZING THE ISSUANCE OF ONE OR
5 MORE SERIES OF PENSION OBLIGATION BONDS,
6 APPROVING THE FORM OF AND AUTHORIZING THE
7 EXECUTION AND DELIVERY OF A TRUST AGREEMENT,
8 AND AUTHORIZING A VALIDATION ACTION AND OTHER
9 MATTERS RELATING THERETO

10 WHEREAS, the legislative body (the "Legislative Body") of the County of
11 Riverside (the "Local Agency") adopted a retirement plan pursuant to the Public Employees'
12 Retirement Law, commencing with Section 20000 of the Government Code of the State of
13 California, as amended (the "Retirement Law"); and

14 WHEREAS, the Retirement Law obligates the Local Agency to (1) make annual
15 contributions to the California Public Employees' Retirement System (the "System"), to fund
16 pension benefits for its employees, (2) amortize the unfunded accrued actuarial liability with
17 respect to such pension benefits, and (3) appropriate funds for the purposes described in (1) and
18 (2); and

19 WHEREAS, the obligation of the Local Agency to pay its unfunded accrued
20 actuarial liability to the System and its normal annual contribution to the System (collectively, the
21 "Pension Obligation") is evidenced by a contract between the Local Agency and the System,
22 dated April 1, 1945 and witnessed December 26, 1944, and as amended effective February 1,
23 1948, September 1, 1949, January 1, 1952, February 1, 1954, January 1, 1960, February 1, 1960,
24 July 1, 1961, January 2, 1963, December 1, 1964, October 3, 1968, February 5, 1970, March 28,
25 1974, June 6, 1974, October 10, 1974, March 10, 1977, April 7, 1977, July 14, 1977, October 1,
26 1977, February 1, 1980, July 23, 1981, September 17, 1981, November 26, 1982, February 17,
27 1983, September 1, 1984, November 21, 1985, March 13, 1986, June 6, 1986, January 15, 1987,
28 August 25, 1988, December 25, 1992, June 30, 1995, December 1, 1995, December 19, 1996,
December 24, 1998, April 6, 2000, September 1, 2000, June 28, 2001, January 11, 2002 and July
11, 2002, as heretofore and hereafter amended from time to time (collectively, the "PERS

1 Contract”); and

2 WHEREAS, the Local Agency desires to issue bonds (the “Pension Obligation
3 Bonds”) in an aggregate principal amount not to exceed the Pension Obligation, plus an
4 additional amount to pay costs of issuance of the Pension Obligation Bonds, for the purpose of
5 refunding the PERS Contract and thereby providing funds to the System in payment of all or part
6 of the Pension Obligation and to authorize the issuance of additional bonds in the future from
7 time to time for the purpose of paying the obligations of the Local Agency to the System required
8 pursuant to the Retirement Law, including (i) all or a portion of the unfunded accrued actuarial
9 liability of the Local Agency remaining unpaid on the date of issuance of such additional bonds
10 and the unpaid amount of the Local Agency’s normal annual contribution to the System for the
11 Fiscal Year in which such additional bonds are issued and (ii) refunding the Pension Obligation
12 Bonds or additional series of bonds; and

13 WHEREAS, there is on file with the Legislative Body the proposed form of Trust
14 Agreement (the “Trust Agreement”) to be entered into between the Local Agency and a financial
15 institution to be selected as trustee (the “Trustee”), relating to the Pension Obligation Bonds,
16 including the forms of Bonds attached thereto as an exhibit.

17 NOW, THEREFORE, IT IS RESOLVED, DETERMINED AND ORDERED by
18 the Board of Supervisors of the County of Riverside as follows:

19 Section 1. This Legislative Body hereby finds and declares that the issuance of the
20 Pension Obligation Bonds to refund the Pension Obligation, and the other actions contemplated
21 by this Resolution are in the best interests of the Local Agency and are anticipated to result in
22 savings based on current actuarial assumptions.

23 Section 2. This Legislative Body hereby authorizes and approves the issuance of
24 the Pension Obligation Bonds and hereby authorizes and directs the Chairman of the Board of
25 Supervisors to execute the Pension Obligation Bonds, and to cause the Pension Obligation Bonds
26 to be authenticated and delivered in accordance with the Trust Agreement. The Pension
27 Obligation Bonds shall be in substantially the forms attached to the Trust Agreement, with such
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1 changes therein, deletions therefrom and additions thereto as the Chairman of the Board of
2 Supervisors shall approve, such approval to be conclusively evidenced by the execution and
3 delivery of the Pension Obligation Bonds; the Pension Obligation Bonds may be issued as either
4 current interest fixed rate bonds, listed securities, capital appreciation bonds, index bonds or
5 auction rate securities or a combination thereof, and may be issued in a single series or in two or
6 more series, at one time or from time to time, provided, however, that the aggregate initial
7 principal amount of the Pension Obligation Bonds shall not exceed the amount of the Pension
8 Obligation (as confirmed by the System or the Local Agency's actuary) remaining unpaid on the
9 date of issuance of the Pension Obligation Bonds, plus an additional amount to pay costs of
10 issuance of the Pension Obligation Bonds, original issue discount, and underwriter's discount on
11 the Pension Obligation Bonds (such underwriter's discount, excluding original issue discount, not
12 to exceed one percent (1%) of the aggregate principal amount of the Pension Obligation Bonds,
13 provided that, if listed securities are issued, the underwriter's discount for the listed securities
14 shall not exceed three percent (3%) of the aggregate principal amount of the listed securities); the
15 maximum interest rate on each series of the Pension Obligation Bonds which are issued as fixed
16 rate bonds, including current interest fixed rate bonds, listed securities or capital appreciation
17 bonds shall not exceed seven and one-half percent (7.5%) per annum and the maximum interest
18 rate on each series of the Pension Obligation Bonds which are issued as variable rate bonds,
19 including index bonds or auction rate securities shall not exceed seventeen percent (17%) per
20 annum; and the Pension Obligation Bonds shall mature not later than thirty (30) years following
21 their date of issuance. The Pension Obligation Bonds shall constitute an obligation imposed by
22 law, pursuant to the Constitution of the State of California and the Retirement Law and an
23 obligation of the Local Agency not limited as to payment from any special source of funds. The
24 Pension Obligation Bonds shall not, however, constitute an obligation of the Local Agency for
25 which the Local Agency is obligated to levy or pledge any form of taxation or for which the
26 Local Agency has levied or pledged any form of taxation.

1 Section 3. The proposed form of Trust Agreement, between the Local Agency and
2 the Trustee, on file with the Clerk of the Board of Supervisors, is hereby approved. The County
3 Executive Officer, the Assistant County Executive Officer and the Finance Director (the
4 “Authorized Representatives”) are each hereby authorized and directed, severally, or any such
5 officer’s designee, for and on behalf of the Local Agency, to execute and deliver the Trust
6 Agreement, substantially in the form on file with the Clerk of the Board of Supervisors, with such
7 changes therein, deletions therefrom and additions thereto (including, but not limited to changes,
8 deletions and additions as may be required by a municipal bond insurer) as such Authorized
9 Representative shall approve, such approval to be conclusively evidenced by the execution and
10 delivery of the Trust Agreement. Pursuant to the terms of the Trust Agreement, the Legislative
11 Body hereby approves the issuance of additional series of bonds in the future from time to time
12 (which additional series of bonds may be current interest fixed rate bonds, listed securities, capital
13 appreciation bonds, index bonds, auction rate securities, variable rate bonds or tender option
14 bonds) pursuant to supplemental trust agreements, subject to the limitations contained in the Trust
15 Agreement presented to this meeting, for the purpose of refunding the Pension Obligation Bonds
16 or any additional series of bonds from time to time issued pursuant to a supplemental trust
17 agreement or for the purpose of paying the obligations of the Local Agency to the System
18 required pursuant to the Retirement Law, including (i) all or a portion of the unfunded accrued
19 actuarial liability of the Local Agency remaining unpaid on the date of issuance of such additional
20 series of bonds and (ii) the unpaid amount of the Local Agency’s normal annual contribution to
21 the System for the Fiscal Year in which such additional series of bonds are issued.

22 Section 4. This Legislative Body hereby finds and determines that the entering
23 into of an interest rate swap agreement in the form of the International Swap Dealers Association
24 Master Agreement with appropriate schedules, confirmations and other related documents (the
25 “Swap Agreement”) with a counterparty pursuant to Section 5922 of the California Government
26 Code in a notional amount not exceeding the aggregate authorized principal amount of the
27 Pension Obligation Bonds is designed to result in a lower cost of borrowing for such Pension
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1 Obligation Bonds, and the Authorized Representatives are hereby authorized to negotiate a Swap
2 Agreement with a counterparty in a notional amount not exceeding the aggregate principal
3 amount of any Pension Obligation Bonds, with a view to reducing the Local Agency's cost of
4 borrowing evidenced and represented by such Pension Obligation Bonds, and the Authorized
5 Representatives are hereby authorized and directed, severally, or any such officer's designee, for
6 and on behalf of the Local Agency, to execute and deliver the Swap Agreement, substantially in
7 the form on file with the Clerk of the Board of Supervisors, with such changes therein, deletions
8 therefrom and additions thereto (including, but not limited to changes, deletions and additions as
9 may be required by a municipal bond insurer) as such Authorized Representative shall approve,
10 such approval to be conclusively evidenced by the execution and delivery of the Swap
11 Agreement; provided, that (i) no Swap Agreement shall have a term extending beyond the stated
12 final maturity date of the Pension Obligation Bonds; (ii) the net amounts, if any, payable by the
13 Local Agency with respect to a Swap Agreement shall be payable solely and exclusively from
14 lawfully available moneys of the Local Agency, and (iii) each Swap Agreement shall provide for
15 receipt of payment by the Local Agency at each payment date under the Swap Agreement of the
16 net amounts, if any, owed under the Swap Agreement.

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18 Section 5. If an Authorized Representative determines that it will be advantageous
19 to the Local Agency to purchase municipal bond insurance or secure other credit or liquidity
20 enhancement with respect to some or all of the Pension Obligation Bonds, such Authorized
21 Representative or his designee is hereby authorized to do so at market rates.

22 Section 6. This Legislative Body hereby designates Orrick, Herrington & Sutcliffe
23 LLP ("Orrick"), as bond counsel for the Pension Obligation Bonds, with bond counsel services to
24 consist of and be limited to rendering an opinion on the validity of the Pension Obligation Bonds,
25 the preparation of documents providing for the issuance of the Pension Obligation Bonds and the
26 validation action relating to the Pension Obligation Bonds. This Legislative Body hereby agrees
27 to compensate Orrick in the amount of \$7500 to cover a portion of the cost of the validation
28 action (exclusive of court filing fees and publication costs), such amount to be paid from proceeds

1 of the Pension Obligation Bonds, or if the Local Agency does not for any reason (including,
2 without limitation, a challenge to the validation action) issue Pension Obligation Bonds prior to or
3 during the 2004-2005 Fiscal Year from any available funds of the Local Agency. In the event the
4 Pension Obligation Bonds are issued for purchase by the California Statewide Communities
5 Development Authority (the "Pool Bond Issuer"), all other fees and expenses of Orrick shall be
6 the responsibility of the Pool Bond Issuer to be paid from proceeds of bonds (the "Pool Bonds")
7 issued by the Pool Bond Issuer to purchase the Local Agency's Pension Obligation Bonds. This
8 Legislative Body hereby acknowledges and consents to and waives any conflict arising from the
9 appointment of Orrick also as bond counsel and issuer counsel to the Pool Bond Issuer in
10 connection with the Pool Bonds.

11 Section 7. The Authorized Representatives of the Local Agency are, and each of
12 them hereby is, authorized and directed to do any and all things, including bringing a validation
13 action under Section 860 of the California Code of Civil Procedure, and to take any and all
14 actions (including any required publications of summons or other notice) and execute and deliver
15 any and all documents which they or any of them deem necessary or advisable in order to
16 consummate the transactions contemplated by this Resolution and the Trust Agreement and
17 otherwise to carry out, give effect to and comply with the terms and intent of this Resolution and
18 the Trust Agreement, including supplying information for and approving any portion of any
19 official statement or any future continuing disclosure for the Pool Bonds pertaining to the Local
20 Agency and approving any bond purchase contract between the Pool Bond Issuer and the Local
21 Agency or between the Pool Bond Issuer and the underwriter of the Pool Bonds, including any
22 representations, warranties or covenants of the Local Agency contained therein.

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24 Section 8. This Resolution shall take effect from and after its date of adoption.

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26 [Attach form of Certification of the Secretary or Clerk, as appropriate, with respect to the
27 Resolution.]
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