

AGENDA

**BOARD OF DIRECTORS
ORANGE COUNTY SANITATION DISTRICT**

**DISTRICT'S ADMINISTRATIVE OFFICES
10844 ELLIS AVENUE
FOUNTAIN VALLEY, CA 92708**

SPECIAL MEETING

May 14, 2008 – 5:00 P.M.

1. Invocation and Pledge of Allegiance
2. Roll Call
3. Public Comments
5. The Chair, General Manager and General Counsel may present verbal reports on miscellaneous matters of general interest to the Directors. These reports are for information only and require no action by the Directors.

CONSENT CALENDAR

6. No items to be considered.

NON-CONSENT CALENDAR

7. Adopt Resolution No. OCSD08-05, a Resolution of the Board of Directors of the Orange County Sanitation District Authorizing the Execution and Delivery by the District of an Installment Purchase Agreement, a Trust Agreement, and a Continuing Disclosure Agreement in connection with the execution and delivery of Orange County Sanitation District Certificates of Participation, Refunding Series 2008A, Authorizing the Execution and Delivery of such Certificates Evidencing Principal in an Aggregate Amount of Not to Exceed \$85,000,000, Authorizing the Distribution of an Official Notice Inviting Bids and an Official Statement in Connection with the Offering and Sale of such Certificates and Authorizing the Execution of Necessary Documents and Related Actions.
8. Recess by Board of Directors, Orange County Sanitation District

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9. Call to Order, Board of Directors, Orange County Sanitation District Financing Corporation:
 - a. Roll Call
 - b. Report of the Director of Finance

- d. Adopt Resolution No. FC-06, a Resolution of the Board of Directors of the Orange County Sanitation District Finance Corporation Authorizing the Execution and Delivery by the Corporation of an Installment Purchase Agreement, a Trust Agreement, and a Continuing Disclosure Agreement in connection with the execution and delivery of Orange County Sanitation District Certificates of Participation, Refunding Series 2008A, Authorizing the Execution and Delivery of such Certificates Evidencing Principal in an Aggregate Amount of Not to Exceed \$85,000,000, Authorizing the Distribution of an Official Notice Inviting Bids and an Official Statement in Connection with the Offering and Sale of such Certificates and Authorizing the Execution of Necessary Documents and Related Actions.
10. Adjourn, Board of Directors, Orange County Sanitation District Financing Corporation.

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11. Reconvene, Board of Directors, Orange County Sanitation District
12. Closed Session

CLOSED SESSION: During the course of conducting the business set forth on this agenda as a regular meeting of the Board, the Chair may convene the Board in closed session to consider matters of pending real estate negotiations, pending or potential litigation, or personnel matters, pursuant to Government Code Sections 54956.8, 54956.9, 54957 or 54957.6, as noted.

Reports relating to (a) purchase and sale of real property; (b) matters of pending or potential litigation; (c) employment actions or negotiations with employee representatives; or which are exempt from public disclosure under the California Public Records Act, may be reviewed by the Board during a permitted closed session and are not available for public inspection. At such time as the Board takes final action on any of these subjects, the minutes will reflect all required disclosures of information.

- a. Convene in closed session, if necessary
- b. Reconvene in regular session
- c. Consideration of action, if any, on matters considered in closed session
13. Other business and communications or supplemental agenda items, if any.
14. Adjournment - The next Board of Directors regular meeting is scheduled for May 28, 2008, at 6:30 p.m.

Agenda Posting: In accordance with the requirements of California Government Code Section 54954.2, this agenda has been posted in the main lobby of the District's Administrative offices not less than 72 hours prior to the meeting date and time above. All written materials relating to each agenda item are available for public inspection in the office of the Clerk of the Board.

Items Not Posted: In the event any matter not listed on this agenda is proposed to be submitted to the Board for discussion and/or action, it will be done in compliance with Section 54954.2(b) as an emergency item or because there is a need to take immediate action, which need came to the attention of the Board subsequent to the posting of agenda, or as set forth on a supplemental agenda posted in the manner as above, not less than 72 hours prior to the meeting date.

Public Comments: Any member of the public may address the Board of Directors on specific agenda items or matters of general interest. As determined by the Chair, speakers may be deferred until the specific item is taken for discussion and remarks may be limited to three minutes.

Matters of interest addressed by a member of the public and not listed on this agenda cannot have action taken by the Board of Directors except as authorized by Section 54954.2(b). If you wish to speak, please complete a Speaker's Form (located at the table outside of the Board Room) and give it to the Clerk of the Board.

Consent Calendar: All matters placed on the Consent Calendar are considered as not requiring discussion or further explanation and unless any particular item is requested to be removed from the Consent Calendar by a Director, staff member or member of the public in attendance, there will be no separate discussion of these items. All items on the Consent Calendar will be enacted by one action approving all motions, and casting a unanimous ballot for resolutions included on the consent calendar. All items removed from the Consent Calendar shall be considered in the regular order of business.

Members of the public who wish to remove an item from the Consent Calendar shall, upon recognition by the Chair, state their name, address and designate by number the item to be removed from the Consent Calendar.

The Chair will determine if any items are to be deleted from the Consent Calendar.

Items Continued: Items may be continued from this meeting without further notice to a Committee or Board meeting held within five (5) days of this meeting per Government Code Section 54954.2(b)(3).

Meeting Adjournment: This meeting may be adjourned to a later time and items of business from this agenda may be considered at the later meeting by Order of Adjournment and Notice in accordance with Government Code Section 54955 (posted within 24 hours).

Accommodations for the Disabled: The Board of Directors Meeting Room is wheelchair accessible. If you require any special disability related accommodations, please contact the Orange County Sanitation District Clerk of the Board's office at (714) 593-7130 at least 72 hours prior to the scheduled meeting. Requests must specify the nature of the disability and the type of accommodation requested.

NOTICE TO DIRECTORS: To place items on the agenda for the Regular Meeting of the Board of Directors, items shall be submitted to the Clerk of the Board no later than the close of business 14 days preceding the Board meeting. The Clerk of the Board shall include on the agenda all items submitted by Directors, the General Manager and General Counsel and all formal communications.

General Manager	James D. Ruth	(714) 593-7110	jruth@ocsd.com
Assistant General Manager	Bob Ghirelli	(714) 593-7400	rghirelli@ocsd.com
Clerk of the Board	Penny Kyle	(714) 593-7130	pkyle@ocsd.com
Director of Engineering	Jim Herberg	(714) 593-7020	jherberg@ocsd.com
Director of Fin. & Admin Services	Lorenzo Tyner	(714) 593-7550	ltynr@ocsd.com
Director of Operations & Maintenance	Nick Arhontes	(714) 593-7210	narhontes@ocsd.com
Director of Technical Services	Ed Torres	(714) 593-7080	etorres@ocsd.com
General Counsel	Brad Hogin	(714) 415-1006	bhogin@wss-law.com

BOARD OF DIRECTORS
AGENDA REPORT

Meeting Date	To Bd. of Dir. 05/14/08
Item Number	Item Number 7

Orange County Sanitation District

FROM: James D. Ruth, General Manager
Originator: Lorenzo Tyner, Director of Finance and Administrative Services

SUBJECT: CERTIFICATES OF PARTICIPATION (COPs), REFUNDING SERIES 2008A

GENERAL MANAGER'S RECOMMENDATION

Adopt Resolution No. OCSD08-05, a Resolution of the Board of Directors of the Orange County Sanitation District Authorizing the Execution and Delivery by the District of an Installment Purchase Agreement, a Trust Agreement, and a Continuing Disclosure Agreement in connection with the execution and delivery of Orange County Sanitation District Certificates of Participation, Refunding Series 2008A, Authorizing the Execution and Delivery of such Certificates Evidencing Principal in an Aggregate Amount of Not to Exceed \$85,000,000, Authorizing the Distribution of an Official Notice Inviting Bids and an Official Statement in Connection with the Offering and Sale of such Certificates and Authorizing the Execution of Necessary Documents and Related Actions.

SUMMARY

As a result of the financial problems of the District's bond insurer on the District's COP Refunding Series 1992 debt issue, the District's remarketing agent is having difficulty in remarketing this variable rate debt on a weekly basis. It's critical that the District take action to remove these difficulties in order to avoid additional interest expense throughout the remaining five-year life of this issue totaling \$6.4 million. This special meeting was necessary to avoid \$300,000 to \$400,000 in additional interest costs that would occur as a result of delaying action until the regularly scheduled board meeting.

The District's \$160.6 million COP Refunding Synthetic Fixed Rate debt was issued in 1992 as weekly variable rate debt and simultaneously converted by the District to fixed rate debt through a swap agreement with American International Group, Inc. (AIG). This agreement requires the District to pay AIG a 5.55 percent fixed rate on the outstanding debt while AIG paid the going variable market rate. The District's underlying insurer on this debt issue, Ambac Financial Group, Inc. (Ambac), is currently experiencing financial problems due to difficulties stemming from the subprime housing crisis and, as result, the remarketing agent, UBS, is having difficulty remarketing the COP Series 1992 on a weekly basis. In addition, UBS, an investment bank headquartered in Switzerland, announced last week that they were exiting the U.S. public finance market. UBS remarketing support for the COP Series 1992 is, at best, questionable, given the lack of interest from investors and complicated by the announced departure of UBS from the public finance market.

Options Available to the District

1. Do Nothing

The District has enjoyed present value savings of \$6.5 million since 1992 as a result of entering into the swap agreement over issuing plain fixed rate debt. However, if the District was to take no action at this time, there is a high probability that UBS may be unable to successfully remarket these COPs to investors. If this were to occur, unsold cops would be sent back to the liquidity facility bank (the bank that supports the underlying par value of the bonds until they are sold to a new buyer or redeemed), Lloyds Bank. This action would trigger an alternative interest rate as defined within the swap agreement that more than doubles the District's existing 5.5 percent negotiated fixed rate with AIG. Based on current market conditions, **this higher interest rate would result in a present value cost to the District to final maturity in 2013 of \$6.4 million** which negates almost all the original realized savings to date from the swap.

2. Refund COP Series 1992 as a New Refunding COP Synthetic Fixed Rate Debt Issue

In doing so, we would be issuing this debt under the District's credit rating without outside insurance as we did with the COP Series 2006 Variable Rate Debt issue, thereby eliminating the underlying insurer problems with Ambac. In the current market, investors have no issues with purchasing the District's unenhanced (without bond insurance) variable rate debt due to the District's double-A credit ratings backed by a bank liquidity facility.

This structure would also amend the AIG swap agreement from the COP Series 1992 to the new refunding issue *without* incurring any termination fees. (AIG would be entitled to a termination fee as high as \$6.4 million if the District were to terminate the swap. This structure was put into place back in 1992 to offset some of the risk exposure to AIG should interest rate become favorable to them. In a rising interest rate environment, AIG would lose money as a result of the swap; in a declining interest rate environment, AIG makes money as a result of the swap. The termination fee structure is to ensure that AIG is not penalized due to the risk they have undertaken by the issuer refunding the debt in a low interest rate environment.)

Total estimated cost that would be incurred under this alternative would be:

Cost of Issuance	\$ 545,000
Underwriter Costs	360,000
Additional 25 basis points in Liquidity fees to Lloyds to maturity (current market Rates)	495,000
Additional interest expense in the paying off of the 1992 debt issue for one month	<u>770,000</u>
Total Estimated Cost	<u>\$2,170,000</u>

Additional concerns with this option:

1. The District would be exposed to bank facility provider credit risk and renewal risk in three years and continue to retain some level of put risk based on unforeseeable future market disruptions.
2. Negotiations could be involved and time consuming with AIG, Lloyds, and the remarketing agent successor to UBS.
3. Cost of issuance cannot be funded from bond proceeds (must be funded from District available reserves).

3. Refund COP Series 1992 as New Refunding COP Fixed Rate Debt

Refunding the debt at a fixed rate would require the termination of the AIG swap agreement that has a current market value of approximately \$6.4 million that would be owed by the District, although it is possible a lower termination fee will be negotiated.

However, since current fixed rate refunding borrowing costs are approximate 3 percent, the present value in interest rate savings over the remaining five-year life will offset much of the termination fee.

Total estimated cost that would be incurred under this alternative would be:

Cost of Issuance	\$ 400,000
Estimated Swap termination Fee	6,400,000
Present Value Debt Service Savings	<u>(4,700,000)</u>
Total Estimated Cost	<u>\$2,100,000</u>

Additional benefits with refunding with fixed rates:

1. The District can fund all costs with new bond issue (no out-of-pocket costs).
2. Fixed rate refunding will require less negotiations with third parties.
3. Obtaining ratings from bond rating agencies will be simpler and faster.
4. Once the debt is issued, there will be no further outside risks to the District.

Staff is recommending Option 3, the refunding of the COP Series 1992 Synthetic Fixed Rate Debt issue as a standalone fixed rate debt issue that will preserve the majority of the original expected swap savings, has less risk associated with it, and can be completed sooner than Option 2.

This refunding financing will be structured as new fixed rate Certificates of Participation that is to be sold in a competitive sale. Staff and consultants will make a brief presentation and provide an overview of the draft documents and the financing schedule at the Board meeting.

PRIOR COMMITTEE/BOARD ACTIONS

N/A

ADDITIONAL INFORMATION

The \$85 million that is borrowed will be repaid with interest over the next 6 years. The total interest cost is expected to approximate 3.0% (or less than approximately \$8 million).

The Board of Directors and the Financing Corporation will each be required to adopt separate Resolutions to complete this borrowing. Drafts of these two Resolutions are attached for review. A Financing Corporation is required by the structure of the COPs and was formed in April 2000, solely to satisfy this need. The Board of Directors of the Corporation is the same as the Board of Directors of the District and the Corporation meets after an adjournment of the OCSD Board.

The OCSD Resolution authorizes the execution and delivery of certain legal documents and the execution and delivery of Certificates of Participation evidencing principal in an aggregate amount of not to exceed \$85,000,000 all as spelled out in the title as follows:

“A RESOLUTION OF THE BOARD OF DIRECTORS OF THE ORANGE COUNTY SANITATION DISTRICT AUTHORIZING THE EXECUTION AND DELIVERY BY THE DISTRICT OF AN INSTALLMENT PURCHASE AGREEMENT, A TRUST AGREEMENT, AND A CONTINUING DISCLOSURE AGREEMENT IN CONNECTION WITH THE EXECUTION AND DELIVERY OF ORANGE COUNTY SANITATION DISTRICT CERTIFICATES OF PARTICIPATION, SERIES 2008A, AUTHORIZING THE EXECUTION AND DELIVERY OF SUCH CERTIFICATES EVIDENCING PRINCIPAL IN AN AGGREGATE AMOUNT OF NOT TO EXCEED \$85,000,000, APPROVING A NOTICE OF INTENTION TO SELL, AUTHORIZING THE DISTRIBUTION OF AN OFFICIAL NOTICE INVITING BIDS AND AN OFFICIAL STATEMENT IN CONNECTION WITH THE OFFERING AND SALE OF SUCH CERTIFICATES, AND AUTHORIZING THE EXECUTION OF NECESSARY DOCUMENTS AND RELATED ACTIONS.”

The Resolution of the Corporation is somewhat shorter and simpler. It authorizes three actions that are similarly enumerated in the title as follows:

“A RESOLUTION OF THE BOARD OF DIRECTORS OF THE ORANGE COUNTY SANITATION DISTRICT FINANCING CORPORATION AUTHORIZING THE EXECUTION AND DELIVERY BY THE CORPORATION OF AN INSTALLMENT PURCHASE AGREEMENT AND A TRUST AGREEMENT IN CONNECTION WITH THE EXECUTION AND DELIVERY OF ORANGE COUNTY SANITATION DISTRICT CERTIFICATES OF PARTICIPATION, SERIES 2008A; AUTHORIZING THE EXECUTION AND DELIVERY OF SUCH CERTIFICATES EVIDENCING PRINCIPAL IN AN AGGREGATE AMOUNT OF NOT-TO-EXCEED \$85,000,000 AND; AUTHORIZING THE EXECUTION OF NECESSARY DOCUMENTS AND CERTIFICATES AND RELATED ACTIONS.”

Following is a chart listing the remaining steps to be completed for the issuance of the COP Series 2008A debt issuance:

May	<ul style="list-style-type: none">➤ Board approval of legal and disclosure documents➤ Publish Notice of Intention to Sell➤ Receive Ratings from Bond Rating Agencies➤ Competitive Pricing➤ Closing➤ Redemption Notice
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ATTACHMENTS

N/A

JDR:LT:MW