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TO: Barbara Levin Bergman  
Chair, Ways & Means Committee

THROUGH: Robert E. Guenzel  
County Administrator

FROM: Curtis N. Hedger, Corporation Counsel  
Peter Ballios, Finance Director  
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Monica L. Boote, Human Resources Operational Director

DATE: July 2, 2008

SUBJECT: Approval of an Ordinance Confirming and Restating Washtenaw County's Existing Contractual Obligations to Provide for Medical Benefits for Certain Retired County Employees and Their Eligible Dependents

Approval of an Ordinance to establish an alternative funding mechanism for Washtenaw County to fulfill its contractual obligation to provide retiree medical benefits; authorizing the creation of the Washtenaw County Retiree Medical Benefits Funding Trust; and approving a contract between Washtenaw County and the Washtenaw County Retiree Medical Benefits Funding Trust

**BOARD ACTION REQUESTED:**

It is requested that the Board of Commissioners, as part of the same transaction, approve an Ordinance to confirm and restate Washtenaw County's existing contractual obligations to provide for medical benefits for certain retired county employees and their eligible dependents.

It is further requested that the County Board of Commissioners take the following actions: (1) approve an Ordinance to establish an alternative funding mechanism for Washtenaw County to fulfill its contractual obligations to provide retiree medical benefits; (2) authorize the Chair of the Board to execute those documents necessary to establish the Washtenaw County Retiree Medical Benefits Funding Trust; and (3) authorize the Chair of the Board to execute a Contract between Washtenaw County and the Washtenaw County Retiree Medical Benefits Funding Trust.

**BACKGROUND:**

The County provides medical benefits to County retirees, their spouses and dependents pursuant to the terms of collective bargaining agreements, policies for non union former employees, and the

Washtenaw County Retiree Health Care Plan. On December 27, 1996 the County established a trust (Resolution #96-0291) exempt from tax under Section 501(c)(9) of the Internal Revenue Code of 1986, as amended, to take the following actions: (1) accumulate during the employees' working years the funds needed to pay for retiree health benefits after retirement; (2) pay retiree medical benefits under the Plan; (3) receive contributions from the County and employees required by the terms of collective bargaining agreements or County policies for non-union employees to fund Voluntary Employee Benefit Administration's (VEBA's) purpose.

Presently the County funds its retiree health benefits from all operating funds as well as earnings from the VEBA Trust. According to the Annual Actuarial Valuation dated December 31, 2006 the current actuarial value of the assets in the VEBA trust were \$37,653,565 and the Actuarial Accrued Liability ("AAL") was \$183,743,134 leaving a Retiree Medical Benefit Unfunded Actuarial Accrued Liability ("RMB UAAL") of \$146,089,569, representing a 20.5% funded ratio. As of December 31, 2007 the County is now required to recognize the difference between what the actuary determines is the amount under Governmental Accounting Standards Board (GASB)-- 45 that the County should pay into VEBA with what the County actually contributes to VEBA. (That amount for 2007 was \$2,311,907).

The County has been reviewing alternative funding mechanisms to fully pre-pay the RMB UAAL. Initially, the County looked at the possibility of bonding for this liability; however, under Michigan law, a governmental entity is not permitted to bond for RMB UAAL. An alternative means of fully pre-funding the RMB UAAL, however, is to issue taxable Certificates of Participation ("COPS") through a funding trust. Under this funding method, a funding trust would issue COPS which would generate enough money to fully pre-fund the RMB UAAL. Upon the sale of the COPS, the funding trust would distribute the proceeds of the sale into the VEBA trust where they could only be used to fund retiree medical benefits. The COPS would then be repaid by the County to the Funding Trust over a twenty-year repayment period pursuant to a contract between the County and the funding trust.

At its meeting on June 4, 2008, the Board of Commissioners approved a Resolution authorizing the County to begin the process to create a funding trust that would issue taxable COPS to raise enough money to fully fund the RMB UAAL, which would then be deposited in the VEBA Trust. These actions, included the approval of preliminary plans and estimates relating to the sale of COPS to pre-fund the County's RMB UAAL, retaining bond counsel, including a special counsel to provide a tax opinion of the COPS sale, retaining a financial consultant for the project and retaining a second financial consultant to provide an objective opinion on the project and the figures provided by the original financial consultant.

The Board of Commissioners is now being asked to approve the next steps in the process to pre-fund the County's RMB UAAL through the sale of COPS in an amount not to exceed \$168.3 million dollars. The actual figure which is expected to be closer to \$160 million dollars will not be finally determined until the County's actuary provides that information. The \$168.3 million dollar figure provides enough of a cushion to permit the process for the COPS sale to go forward pending the delivery of this figure from the actuary.

First, the Board of Commissioners is being asked to approve an Ordinance which confirms and restates Washtenaw County's existing contractual obligations to provide for medical benefits for certain retired County employees and their eligible dependents. As one can imagine, the County has entered into a number of agreements over the years to provide retiree medical benefits to its retired employees. Beginning in 1948, the proposed Ordinance restates each of these County contractual obligations to provide retiree medical benefits. The purpose of the Ordinance is to

have one easily accessible document where the Board of Commissioners confirms each of its contractual obligations to provide such retiree medical benefits. This document will permit bond counsel to give an opinion concerning the County's RMB UAAL as well as the funding needed to meet that unfunded liability. To that extent, approval of this Ordinance is a pre-requisite to approval of the Ordinance which creates the Funding Trust and authorizes the Chair of the Board of Commissioners and County Clerk to execute a Contract with that Funding Trust to complete the sale of COPS to fully pre-fund the County's RMB UAAL.

The second and most important step is for the Board of Commissioners to approve a second Ordinance which establishes the sale of COPS as an alternative funding mechanism for the County's RMB UAAL. The Ordinance, if approved, would also authorize the Chair of the Board of Commissioners and the County Clerk to execute whatever documents are required to form the Washtenaw County Retiree Medical Benefits Funding Trust ("Funding Trust"). Once the Funding Trust is created, the Ordinance further authorizes the Chair of the Board of Commissioners and the County Clerk to execute a Contract with the Funding Trust. This Contract provides, in part, that the Funding Trust will have the obligation to direct the proceeds from the COPS sale to the VEBA Trust where they can only be used to fund retiree medical benefits. The County's main obligation under the Contract is to make the semi-annual repayments over a twenty-year period as required to retire the debt service on the issuance of the COPS.

Under Michigan law (MCLA 46.11(j)) the Board of Commissioners has the authority to pass a County Ordinance. An Ordinance passed under this provision, however, does not take effect until 50 days after the Board of Commissioners votes to adopt the Ordinance. The 50-day period is to provide an opportunity for the public to obtain enough signatures (20% of the electors residing in the County) to place the Ordinance on the ballot for approval by the voters. If the requisite signatures are not collected within the 50-day period, the Ordinance goes into effect. Thus, once the Board of Commissioners approves the two proposed Ordinances currently proposed, the County will still have to wait for the 50-day "referendum" period to expire before it can proceed to sell the COPS.

In order to take full advantage of the current interest rates in the market, the County has established the following preliminary timetable:

Ordinances Presented for Approval by Ways & Means and Full Board	July 2, 2008
Ordinances Published	July 5, 2008
Notice of Sale Published	August 13, 2008
Receipt of Bids	August 27, 2008
Delivery of Certificates	September 17, 2008

**DISCUSSION:**

Selling COPS to fully fund its VEBA obligation provides a number of important financial benefits to the County. First, by acknowledging the GASB – 45 RMB UAAL and creating a plan to fully fund that liability, the County would be taking steps to protect or even improve upon the current bond

ratings from Moody's (Aa2) and from Standard & Poor's (AA). A favorable bond rating will lower County payments for any future bond issues.

In addition, by fully pre-funding the VEBA, and issuing the COPS, the County will be able to accurately predict its VEBA budget for the next 20 years as the semi-annual, predetermined contract payments to the Funding Trust to pay off the COPS will be established at the time the Certificates are approved. It is estimated that this payment will be approximately \$13.8 million dollars per year for the twenty-year repayment period. In contrast, if the County takes no action to fully fund its VEBA obligation and simply continues to make annual payments to the VEBA Trust on a "pay as you go" basis, it is estimated that such annual payments will continue to increase by millions of dollars over the constant \$13.8 million dollar repayment required to pay off the COPS. Using current actuarial estimates, the County would save millions of dollars over the next twenty years by prefunding VEBA through COPS and then repaying those certificates off at the stable annual rate of approximately \$13.8 million dollars as opposed to taking no action and simply making an annual actuarially determined payment into the VEBA trust.

Another benefit of fully funding the VEBA liability is that the VEBA Trust will most likely be able to invest its assets at a higher rate of interest than the interest rate the County will be required to pay as part of the repayment of the COPS. Currently, the interest rate the County would pay on the COPS varies between 4% and 6%. In contrast, the interest rate of return the VEBA has received in investing its assets over the past five years is 10.93%. If the Board of Commissioners approves the pending Resolution approving the Ordinance, creating the Funding Trust and authorizing a contract between the County and the Funding Trust to complete the sale of the COPS, those funds would be deposited into the VEBA Trust and invested. As the historical rate of interest the VEBA has received in its investments is higher than the interest rate that would be incurred in the repayment of the COPS, those investments should result in additional income for the VEBA Trust. Any such investment income will be dedicated exclusively to the VEBA Trust for the purpose of paying employee retiree health care costs. It is projected that the growth of the \$165 million deposited in the VEBA trust once the COPS are sold will have grown substantially enough over the 20-year COPS repayment period that significant funding would still be in place at the end of 20 years, thereby requiring a much smaller general fund contribution to the VEBA Trust.

The sale of COPS to pre-fund RMB UAAL has already been used successfully by Oakland County, Michigan in the summer of 2007. Oakland County sold in excess of \$500 million dollars of COPS to fully pre-fund its RMB UAAL. Moreover, other governmental entities, including Jackson County, are now beginning the process of selling Certificates of Participation to fully fund their own VEBA responsibility.

**IMPACT ON HUMAN RESOURCES:**

There will be no impact on Human Resources.

**IMPACT ON BUDGET:**

Approval of the proposed Resolutions will have no direct impact on the County's general fund budget.

**IMPACT ON OTHER COUNTY DEPARTMENTS OR OUTSIDE AGENCIES:**

Approval of the proposed Resolutions will require County Administration, County Finance Department and County Human Resources to work closely with the County's bond counsel and financial consultant to insure the efficient sale of the COPS and placement of the proceeds into the VEBA Trust.

**CONFORMITY TO COUNTY POLICIES:**

This request conforms to County policy.

**ATTACHMENTS/APPENDICES:**

- Trust Agreement Creating 2008 Washtenaw County Retiree Medical Benefits Funding Trust
- 2008 Washtenaw County Retiree Medical Benefits Contract