

Establishing an OPEB Irrevocable Trust

An Investment Opportunity

Background:

- **OPEB** stands for “Other Post-employment Benefits.”
- Contractually, the District is obligated to provide lifetime, post-employment medical benefits (Health, Dental and Vision) to 410 current employees, and 422 retirees
- The District’s liability for this benefit (as of 6-30-19) is \$200,280,667
- The amount of money the District has set aside (as of 6-30-19) for this obligation is \$3,399,300 ... (\$1,608,585 in RUMBL Fund, \$1,790,715 in yet-to-be transferred funds from EDCE)
- The “pay-as-you-go” cost of the District’s obligation for 2019-20 is \$7,377,725 ... in 2020-21 the cost will be \$7,847,691
- GASB Rules require that “unfunded” OPEB liabilities must be recognized on the District’s financial statements (as a reduction to the District’s Net Assets)

Options for OPEB

- 1) **Pay-as-you-go approach**
 - May not keep up with liability increases; higher annual costs for several years to come
- 2) **Revocable Trust**
 - Funds contributed to an account outside of the General Fund
 - Funds can be changed or terminated at any time – (Hold for General Fund, funding uncertainties)
 - No accounting offset to the balance sheet liability
- 3) **Irrevocable (IRS Section 115) Trust**
 - Funds contributed to qualified trust
 - Broad range of investment
 - Sole purpose to fund retiree benefits – (No other purpose)
 - Direct offset to OPEB liability on balance sheet
 - Credit Rating and Accreditation positive

Investment Options

- Revocable Trust: Investments Limited per Gov Code 53601 (County Pools, LAIF, Bonds, Treasuries, Fed Agencies, Commercial Paper ... < 5 year Maturities) ≈ Annual 1% over 10 years

- Irrevocable Trust: Investment opportunities similar to a 401K's (California Pooled Trust Providers = CalPERS, CCLC/PARS, Keenan, Independent Advisors) ≈ Annual 8% over 10 years

Investment Opportunity

- Old investment adage: "Buy Low, Sell high"
- At the moment the stock market has lost 28% of its value in just the past month.
- Various predictions on how long for market to bottom-out, as well as how long to recover ... but in both cases the answers are several months
- How quickly could we take advantage of a low-market situation, depends on how quickly we can establish a Section 115 Trust

Establishing a Section 115 Irrevocable Trust

Board of Trustees

- Adopt Resolution establishing a Retirement Board of the Chabot-Las Positas CCD Public Retirement System and approve By-Laws therefor
- Appoint members to Retirement Board (typically 7 members, no more than 3 Board members, minority of Board of District and minority of Retirement Board, usually 2 District staff members and 2 others)
- Adopt Resolution approving a Trust Agreement establishing a Section 115 Trust
 - Assets of Trust must revert back to District upon dissolution
 - District retains control of Trust via the appointment of members of Retirement Board
- Authorizes submission of letter ruling request to IRS seeking tax-exempt status of Trust
 - IRS approval generally takes 6 months and is expected to cost the District about \$50,000—about \$30,000 to the IRS in fees and about \$20,000 of legal expenses associated with documentation

Retirement Board

- Formed pursuant Article 16, Section 17 of California Constitution
- Has sole and exclusive responsibility for investment of assets in the Trust
- The reason to create a Retirement Board is to be able to invest monies in the Trust in stocks, equities and other investments authorized by the Constitution and Government Code Section 53622 (prudent person standard of investment)
- Selection of Program for Trust and Third-Party Administrators via RFP
 - Registered Investment Advisor
 - Discretionary Trustee

District Development

- Substantive Plan
- Policies and Procedures